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Report of the Working Group on Enforced or Involuntary Disappearances

Addendum

Follow-up report to the recommendations made by the Working Group[*]

Missions to Croatia, Montenegro, Serbia and Kosovo[**]

Note by the Secretariat

This document contains information supplied by Governments, authorities, civil society and other stakeholders, relating to the follow-up measures to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its visits in 2014 (A/HRC/30/38/Add.3, A/HRC/30/38/Add.2 and A/HRC/30/38/Add.1).

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[*] Reproduced as received.

[**] All references to Kosovo in the present document should be understood to be in compliance with Security Council resolution 1244 (1999).

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I. Introduction

1. This document contains information supplied by Governments, authorities, civil society and other stakeholders, relating to the follow-up measures to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its visits. In paragraph 7 a) of its Resolution 7/12, the Human Rights Council requested Governments that have accepted visits "to give all necessary attention to the Working Group's recommendations" and invited them to inform the Working Group of "any action they take on those recommendations". The Human Rights council reiterates this request in paragraph 16 a) of its Resolution 21/4. Resolution 27/1 renews the mandate of the Working Group in conformity with the terms set forth in Human Rights Council resolution 7/12.

2. The Working Group decided in 2010 to adopt the present format to its follow-up reports with the aim of rendering it reader-friendly and of facilitating the identification of concrete steps taken in response to the specific recommendations and to reflect the opinions of the different actors involved in the process. For this reason, follow-up tables have been created. The tables contain the recommendations of the Working Group, a brief description of the situation when the visit was undertaken, an overview of the steps taken on the basis of the information gathered by the Working Group both from governmental, non-governmental and other sources[1], and the observations of the Working Group on the level of implementation of the recommendations.

3. The Working Group continues to offer its assistance to the Governments and authorities that have received a visit to comply with the recommendations made and stands ready to assist them in their efforts to prevent and combat the heinous crime of enforced disappearance.

II. Regional recommendations

The Working Group:

4. Notes that little progress has been made vis-à-vis its recommendations to Governments and authorities at regional level to depoliticize the issue of missing persons and treat it as a human rights and humanitarian issue.

5. While with some differences, the contributions received generally confirm that much of the impasse surrounding the issue depends on a deliberate choice not to share relevant information with the counterparts or to share it only when some other information is received in exchange. This not only affects the right to truth of the victims and their relatives, but also the right to justice.

6. Recalls that concrete results on the issue of missing persons in the region can only be achieved through sincere and transparent cooperation among all concerned stakeholders and a depoliticization of the matter.

7. Notes that more efforts should be made to fully implement the "Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses", notably when it comes to its article 7 related to the prosecution of war crimes.

8. Notes the efforts that have been made to address past misidentifications, while emphasizing that this is an issue that needs to be tackled at regional level.

9. Regrets that access to archives and disclosure of relevant information on cases of enforced disappearances remain problematic.

10. On a positive note, in relation to the recommended creation of a regional list of disappeared persons, the Working Group welcomes the creation of the Regional Database of "Active Missing-Persons Cases from the Armed Conflicts in the Former Yugoslavia"

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[1] This information has been reproduced in the tables as received.

with the support of the International Commission of Missing Persons (ICMP) and the participation and support of Croatia, Montenegro, Serbia and Kosovo.

III. Croatia

11. On 12 December 2017, the Working Group on Enforced or Involuntary Disappearances requested the Government of Croatia to provide information on measures taken to implement the recommendations that were made in the report A/HRC/30/38/add.3 (paras. 69-98), after its visit to the country from 15 to 18 June 2014. On 6 February 2018, the Government of Croatia provided the requested information. On 18 July 2018, the Working Group sent the below table for comments to the Government of Croatia, which provided additional information on 14 August 2018.

The Working Group:

12. Thanks the Government of Croatia for the cooperation throughout the process of the follow-up report.

13. While noting that the Directorate for Detained and Missing Persons of the Ministry of the Croatian Veterans continues to conduct activities aimed at resolving cases of all missing persons in the territory of the Republic of Croatia, regardless of their nationality, is concerned about the information that the bilateral cooperation with Serbia, while still formally in place, would have reached a stalemate. It recommends that this cooperation be resumed as soon as possible for the best interests of the victims.

14. Welcomes the creation of the Croatian Government's Commission for the Detainees and Missing Persons and the Task Force on Missing Persons and Burial Sites. It also notes that information gathered by these institutions should be shared with its counterparts at the regional level.

15. Acknowledges the efforts made by Croatia to enable regional dialogue with its neighbours and with international organizations.

16. Is concerned that Croatia has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance and reiterates its call on the Government to ratify it. It also recommends to recognize the competence of the Committee on Enforced Disappearances to receive and examine individual complaints.

17. Reiterates the recommendation formulated after the visit to establish the crime of enforced disappearance as a separate offence in the criminal legislation in accordance with the Declaration. Enforced disappearance should be considered as a continuing offence in accordance with article 17 (1) of the Declaration, i.e. taking place as long as perpetrators continue to conceal the fate and whereabouts of the disappeared person.

18. Notes that the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans collects relevant information for clarifying cases of missing persons from a number of competent authorities. It is not clear though whether relevant archives are in fact open and accessible.

19. Acknowledges the legislative efforts aimed at increasing protection of civilian war victims and to ensure that all victims receive fair treatment without discrimination, notably the Draft Proposal of the "Act on the Rights of Military and Civilian War Victims and their Family Members" and the "Act on Missing Persons from the Homeland War". The Working Group recommends the swift adoption of these two acts, which should be prepared in consultation with civil society.

20. Notes the efforts made by the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans to address past misidentifications, while emphasizing that this is an issue that needs to be tackled at regional level.

21. Notes the signature in 2015 of the "Guidelines for the Advancement of Regional Cooperation in Processing War Crimes and Searching for Missing Persons and the Establishment of Coordination Mechanisms". However, apart from regional meetings, little

progress in prosecuting war crimes seems to have been achieved and more concrete results are needed.

22. Reiterates the recommendation formulated at the end of the country visit to initiate a vetting process to identify all government officials who were allegedly involved in the commission of war crimes as well as to improve and systematize vetting measures in the recruitment and appointment of State officials.

23. Welcomes the Government's intention to adopt the "Law on Memorials of the Homeland War", though it has not received information to the effect that memorials will be erected on behalf of all victims regardless of their nationality or ethnicity.

24. Regrets that training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance, and other international instruments on human rights and humanitarian law, is not yet offered but takes note of the plans to include such trainings in the forthcoming programs of the Judicial Academy and looks forward to receiving information about their implementation.

Follow up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its country visit to Croatia from 15 to 18 June 2014 (A/HRC/30/38/Add.3, paragraphs 69-98)

Recommendations *(A/HRC/30/38/Add.3)*	*Situation during the visit* *(A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
A. Regional recommendations to Governments and authorities	See paragraph 8 of the report.	Government Upon learning that a person has disappeared, the competent police station puts up a search notice - search for this person in the "*National Missing Persons Records*" that is publicly accessible.	The Working Group notes that little progress has been made in this regard.
72. Act with due urgency and speed in the matter of enforced disappearances, as required by the Declaration on the Protection of All Persons from Enforced Disappearance and other international obligations.			
73. Disclose all information on mass graves and make that information accessible to all countries and authorities in the region.	See paragraphs 8 and 14 of the report.	Government The Republic of Croatia, through the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans is searching for 1,945 missing people and mortal remains of the fatally injured persons, citizens/nationals of the Republic of Croatia from the period of Homeland War (record as at 15 January 2018), which, by the time of disappearance, can be divided into two basic groups: missing and killed 1991/92 – 1,130 persons (of which 95% are of Croatian nationality); missing and killed 1995 - 815 persons (of which 98% are of Serbian nationality). The Directorate is responsible for resolving cases of all missing citizens/nationals of the Republic of Croatia, regardless of their nationality. Concerning the cases of missing persons during the years 1991/92	The Working Group welcomes the steps taken by the Croatian authorities in the search of missing persons and notes the information that the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans is responsible for resolving cases of all missing citizens/nationals of the Republic of Croatia, regardless of their nationality. It also recalls that concrete results on the issue of missing persons in the region can only be achieved through sincere and transparent cooperation among all concerned stakeholders and a depoliticization of the matter.

Recommendations *(A/HRC/30/38/Add.3)*	*Situation during the visit* *(A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		(1,130) in the armed aggression at the Republic of Croatia - by Serbia, Montenegro and the former JNA, with the armed rebellion of a part of the Serb population in the Republic of Croatia - the Directorate continuously undertakes efforts. It includes activities starting from the acquisition of state-of-the-art equipment and the improvement of field research methodology, strengthening interagency cooperation and analytical activities, conducting informative campaigns for public awareness, in order to resolve the cases. The key obstacle in solving noticeable cases is the lack of information on unregistered, undercover mass and individual graves in formerly occupied territories of the Republic of Croatia, as well as on the secondary graves in which mortal remains were organized and systematically moved. The Republic of Serbia has the documentation regarding forced disappearances during the war in the 1990s, and many witnesses of these disappearances reside in its territory. Consequently, significant progress in addressing these cases can be expected only with the full cooperation of the Republic of Serbia and the opening of the military archives of the former JNA, which is responsible for the organization of war activities in the former occupied territories of the Republic of Croatia. However, the Republic of Serbia has not made any progress in solving the outstanding issues which the Croatian competent authorities have emphasized since 1995. *(In 2006, the Republic of Serbia stated that progress in resolving open issues can be expected in accordance with the decision of the National Council for Cooperation with the International Criminal Tribunal for the former Yugoslavia on the opening and deregistration of documentation in the Military Archives, but subsequently distanced itself from this statement*). ll the activities of the Directorate have ensured the continuous resolution of the cases of people missing and deceased in 1995. During the search process, the Directorate has organized and carried out the exhumation of 20 sanitized cemeteries. Following the humane sanitation (1995) in accordance with the Geneva Convention, the remains of those killed in military and police operations *"Bljesak"* and *"Oluja"* were buried. Out of the previously mentioned	

Recommendations (A/HRC/30/38/Add.3)	*Situation during the visit (A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		cemeteries, the remains of 1,148 people were exhumed. *(There are about 90 persons buried in the sanitized cemeteries that still need to be exhumed - 93% of the cases were exhumed during the course of the process).* Out of 1,148 exhumed remains, the remains of 746 people were identified by the process of identification. Funeral care is provided for all identified people in accordance with the wishes of their families, which is financed from the State Budget. In the forthcoming period, a continuation of the exhumation of the remains of the buried in sanitized cemeteries is planned, as well as the continuation of. efforts to increase the efficiency of the identification process. In addition to the missing citizens/nationals of the Republic of Croatia, the Directorate undertakes activities to address the cases of citizens/nationals of the Republic of Serbia and Bosnia and Herzegovina who are missing in the territory of the Republic of Croatia. Pursuant to the provisions of the Geneva Conventions, the competent Croatian authorities have transferred all available information and documentation on missing members of armed forces and other persons missing in armed conflicts to the competent authorities of the Republic of Serbia and Bosnia and Herzegovina, whose citizens/nationals have disappeared in the aggression against the Republic of Croatia. Their unconditional transfer was secured, as well as the possibility of joint exploration and marking of possible places of burial, exhumation and identification of the remains. Since the visit of the UN Working Group (June 2014), the Directorate initiated and carried out the following activities, which are of great importance for the Republic of Serbia and Bosnia and Herzegovina: remains of 123 persons buried in 1995 in sanitized cemeteries were exhumed; final identification of the remains of 118 persons exhumed from sanitized cemeteries was organised and carried out; funeral care was organized for all identified persons, and according to	

Recommendations (A/HRC/30/38/Add.3)	*Situation during the visit (A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		the wishes of the family, the remains of 62 persons were buried in the territory of the Republic of Serbia and Bosnia and Herzegovina; the Republic of Serbia has been relegated the remains of 6 of its nationals killed in aggression while the remains of 11 of its citizens were handed over to Bosnia and Herzegovina; the requests of the competent authorities of the Republic of Serbia and Bosnia and Herzegovina for the implementation of field investigations of possible places of burial of missing persons was responded to. The Republic of Croatia will continue to undertake activities through the Directorate to resolve the remaining cases of about 150 citizens/nationals of the Republic of Serbia and about 120 citizens/nationals of Bosnia and Herzegovina who are missing in the territory of the Republic of Croatia. If the Ministry of the Interior learns of possible mass and/or individual graves of persons whose disappearances is related to the Homeland War, it forwards such information to the Ministry of Croatian Veterans that undertakes further measures within its scope of authority based on such information.	
74. Ensure high-level commitment to clarifying the fate and whereabouts of all missing persons, bringing all perpetrators to justice and ensuring full reparation for all victims.	See paragraphs 9 to 11 of the report.	Government Faced with a large number of missing persons in the Homeland War, the Republic of Croatia has been committed to addressing this issue since 1991. It primarily includes: the ratification of instruments in the field of international humanitarian law and human rights law, the adaptation of national legislative, effective institutional activity to protect the rights of their families, the prosecution of perpetrators of criminal offenses of war crimes and the symbolic gesture of expressing gratitude to the victims. The most significant is the establishment and operation of institutional mechanisms for resolving cases of missing persons - since 1991, the authorities responsible for solving the cases of missing persons are active in the Republic of Croatia. The legal	The Working Group welcomes the efforts by the Government to solve cases of missing persons and calls for a full implementation of the "Law on Missing Persons in the Homeland War".

Recommendations (A/HRC/30/38/Add.3)	*Situation during the visit (A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		framework of their activity, with the international instruments of which the Republic of Croatia is a party, is made up of national regulations. The work of these bodies is financed from the State Budget. The search process is based on effective inter-service cooperation and a systematic, comprehensive and transparent approach without discrimination. In the process of seeking missing persons, the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans cooperates with associations of missing persons and international organizations and observation mechanisms. Assessing the approach and high standards reached by the Republic of Croatia in the process of seeking missing persons with a positive mark, international organizations have suspended the monitoring of the process of seeking missing persons in the Republic of Croatia while the International Committee of the Red Cross (ICRC) closed its office in Zagreb (in 2006) and for the first time in the history of its activity, transferred its data and authority to the competent authorities of one state - the Republic of Croatia. Primarily by the efforts of the competent authorities of the Republic of Croatia, most cases of missing persons have been solved. However, the Republic of Croatia is still searching for 1,945 missing persons and remains of killed people, citizens/nationals of the Republic of Croatia (1526 missing persons and 419 remains of killed people). The Republic of Croatia is dedicated to resolve those cases. Continuous efforts are being made to develop resources and improve the work methodology, and in 2018 the *Law on Missing Persons in the Homeland War* is planned on being brought into force in order to protect and further improve the rights of families to find out the truth about the fate of missing members.*(On the efforts of the Directorate in establishing a joint list of persons missing in the territory of the former Yugoslavia, see statement on Recommendation no. 75.)*	

Recommendations (A/HRC/30/38/Add.3)	Situation during the visit (A/HRC/30/38/Add.3)	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		The Ministry of Interior constantly undertakes measures according to current legal provisions to search for missing persons and to find persons responsible for their disappearance. If the disappearance is war-crime related, the perpetrator is reported to the competent state attorney's office.	
75. Reinvigorate efforts to establish a common regional list of the disappeared.	See paragraph 11 of the report.	Government The competent bodies of the Republic of Croatia, together with the *International Commission on Missing Persons* - ICMP, are the initiators of the initiative to establish a unique list of missing persons in the territory of the former Yugoslavia. The Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans gave full and constructive support during the discussion on the way of how the list should be formed, the data it should include, its updating, the right and level of access, technical and administrative support and, in particular, the issues of standards and competencies. Due to the unresolved issues between the Republic of Serbia and Kosovo, the multilateral agreement was abandoned *in favorem* of new bilateral agreements. The Directorate signed the agreement on participation in the project "*Database of Active Missing-Persons Cases from the Armed Conflicts in the Former Yugoslavia*" with ICMP on 31 January 2017 in Sarajevo. The position on participation in the project has been agreed with associations of missing persons in the Republic of Croatia. The delay in the implementation of the project was caused by the prolongation of the Republic of Serbia, who signed the accession treaty project last (October 2017). Upon fulfilment of the above-mentioned conditions, pursuant to the signed Agreement, the Directorate submitted an updated list of all missing persons and remains for which they are still searching to the ICMP on 3 November 2017. Based on the data collected, the ICMP held work presentation regarding the application on 12 December 2017, estimating that the data coordination should be done by the end of 2018. The ICMP will hold training of staff members of the Directorate in	The Working Group welcomes the creation of the Regional Database of "Active Missing-Persons Cases from the Armed Conflicts in the Former Yugoslavia" with the support of the ICMP and the participation of Croatia, Montenegro, Serbia and Kosovo. It also notes the cooperation of the Croatian Government through the submission of an updated list of all missing persons and remains for which they are still searching to the ICMP on 3 November 2017. It encourages the authorities to continue collaborating with this project in order to establish a common regional list of the disappeared and looks forward to receiving more information on its implementation and the forthcoming results in the identification of victims and clarification of cases.

Recommendations (A/HRC/30/38/Add.3)	Situation during the visit (A/HRC/30/38/Add.3)	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		early February 2018, at the proposal of the Directorate in order to work more efficiently on list coordination and on tracking and updating the data in the said Common Database. (*Project implementation deadline – continually)* ICMP The initiative to launch a Regional Database of Open Missing Persons Cases from the Armed Conflicts in the former Yugoslavia began several years ago under the aegis of ICMP with the aim of enhancing regional cooperation among countries of the Western Balkans[2] through the transparent sharing of data on active missing persons cases. In January 2017, the Ministry of Croatian Defenders and ICMP signed an agreement on the participation of Croatia in the Regional Database project[3]. By the end of November 2017 all participating countries (BIH, Croatia, Kosovo, Montenegro and Serbia) had provided their data on active missing persons cases to ICMP for inclusion in the Database. In December 2017 ICMP convened a regional meeting to present the Regional Database. The meeting brought together the Board of Directors of the Missing Persons Institute of Bosnia and Herzegovina, chairpersons of the commissions on missing persons from Kosovo, Montenegro, and Serbia, and the Assistant Minister in charge of the Directorate for Detainees and Missing Persons of Croatia. ICMP's regional partners in the Western Balkans[4] expressed high praise for the Database and concluded that it will be an invaluable tool in their future work.	

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[2] The Government of Croatia suggests that the correct term is "south-eastern European countries" instead of "countries of the Western Balkans".

[3] The Government of Croatia suggests to include the full name of the Database, "project Database of Active Missing Persons Cases From the Armed Conflicts in the Former Yugoslavia."

Recommendations (A/HRC/30/38/Add.3)	*Situation during the visit (A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		Representatives of the national authorities responsible for accounting for missing persons also expressed their strong determination to work together with the aim of refining and filtering the data presently held in the Database, with the aim of establishing an authoritative and publicly-accessible list of active cases of missing persons from the region. To achieve this, representatives of the national authorities will engage in intensive bilateral and multilateral talks to remove duplicates and to work on resolving cases of joint interest in 2018-2019. While transperency tools have facilitated the sharing of ICMP's data and DNA results with multiple partners simultaneously in affected countries of the Western Balkans[5] until now there has been no mechanism by which countries could share their own data with others in a transparent manner and receive updates in real time. The decision by BIH, Croatia, Kosovo, Montenegro and Serbia to participate in the Database project is a major step forward in terms of strengthening regional cooperation to account for around 12,000 people who are still missing from the region. The Database contains, at a minimum, the missing person's first name, father's name, last name, date of birth, place of birth, date of disappearance, place of disappearance, municipality of disappearance, identification (if any, date), and countries in which the disappearance has been registered. ICMP ensures that the data is accessible and searchable by the competent authorities in Croatia, BIH, Kosovo, Montenegro and Serbia on the basis that these authorities reciprocally provide their data relevant to active missing persons cases for inclusion in the Database. In this way, the Database will enhance regional cooperation with a view to resolving missing persons cases from the	

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[4] The Government of Croatia suggests to include the sentence "countries created on the territory of former Yugoslavia" instead of "Western Balkans".

[5] The Government of Croatia suggests to refer to the countries as "affected south-eastern European countries" instead of "affected countries of the Western Balkans"

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		conflicts in the former Yugoslavia.	
76. Speed up the process of tracing missing persons through strengthened cooperation with institutions engaged in tracing disappeared persons in neighbouring countries, especially between prosecutors and judicial institutions. Such cooperation must include the exchange of relevant evidence.	See paragraphs 8 to 12 of the report.	Government The Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans shares the UN Working Group on Forced Missing Issues view that major progress in resolving the issue of missing persons requires strengthening of transnational cooperation which will include the exchange of relevant evidence. *(Efforts undertaken by the Directorate, relevant for the competent authorities of the Republic of Serbia and Bosnia and Herzegovina, are set out in the Report on Recommendation no. 73).* For the purpose of improving transnational cooperation in the search for missing persons, on the initiative of the competent authorities during the visit of the UN Working Group on Enforced or Involuntary Disappearances issues to the Republic of Croatia (June 2014): *(i)* the *Protocol on cooperation between the Government of the Republic of Croatia and the Council of Ministers of Bosnia and Herzegovina* (Sarajevo, July 7, 2017) has been concluded, *(ii)* direct bilateral cooperation with Montenegro was established and the *Protocol on cooperation between the Government of the Republic of Croatia Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans and the Missing Persons Commission of the Government of Montenegro* (Zagreb, 22 December.2017) was concluded. The key obstacle for the Republic of Croatia is the absence of cooperation by the Republic of Serbia. Since the working session on which requests were made by both sides (18 December 2016), the Republic of Serbia did not respond to any inquiries of the Directorate and did not provide any information on missing persons/places of tombs from the request of the Republic of Croatia. Moreover, the authorities of the Republic of Serbia have not resolved any case of a missing person sought by the Republic of Croatia. In this respect, the Republic of Serbia does not implement bilateral acts on cooperation with the Republic of Croatia.	See observation under recommendation n° 73.

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		On 21 April 2015, State Attorney General of the Republic of Croatia Dinko Cvitan, Chief Prosecutor of Bosnia and Herzegovina Goran Salihović and War Crimes Prosecutor of the Republic of Serbia Vladimir Vukčević and United Nations Resident Coordinator in Bosnia and Herzegovina Yuri Afanasiev potpisali su Smjernice za unapredenje regionalne suradnje za procesuiranje ratnih zločina i traganja za nestalim osobama i uspostavu koordinacijskog mehanizama.Afanasiev signed the *Guidelines for the Advancement of Regional Cooperation in Processing War Crimes and Searching for Missing Persons and the Establishment of Coordination Mechanisms*. Navedene su Smjernice potpisane nastavno na ranije potpisane Protokole, Memorandume i Sporazume izmedu Tužilaštava Bosne i Hercegovine, Državnog odvjetništva Republike Hrvatske i Tužilaštva za ratne zločine Republike Srbije (koje Radna Skupina UN-a o prisilnim ili nedobrovoljnim nestancima posebice hvali), u cilju osiguranja nastavka i unaprjeđenja daljnje suradnje navedenih pravosudnih tijela U procesuiranju predmeta ratnih zločina pri čemu Misija Ujedinjenih naroda kroz Razvojni Program Ujedinjenih naroda (UNDP-a) u Bosni i Hercegovini osigurava logističku podršku radi tehničkog i financijskog pružanja pomoći u okviru potpisanih protokola, memoranduma i sporazuma, pri čemu se ne zadire u neovisnost rada i postupanja Državnog odvjetništva Republike Hrvatske i drugih potpisnika.The Guidelines were signed in line with the previously signed Protocols, Memorandums and Agreements between the above-mentioned bodies with a view to continuing and advancing further co-operation in the prosecution of war crimes and in searching for missing persons. Smjernice su potpisane nastavno na ranije potpisane protokole, memorandume i sporazume izmedu predmetnih tužilaštava, a u cilju osiguranj a nastavka i unapredenja daljnje suradn je u procesuiranju predmeta ratnih zločina, a sada i traganja za nestalim osobama.The Guidelines include assisting prosecutors in working on actual cases and pri razmjen i iskustava i podataka glede podrške svjedocima.for exchange of experience and data regarding witness support. Takoder se odnose i na razmjen u informacija korisnih za traganje nestalih	

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		osoba uz očuvanje neovisnosti rada i postupanja svi h tužiteljskih ureda potpisnika, a slijedom čega je prošle godine iuThey also relate to the exchange of information useful for the search for missing persons while preserving the independence of the work and proceeding of all the signatory bodies, pursuant to which a project was implemented in cooperation with the UNDP last year - to improve regional cooperation between prosecution offices and commissions or departments engaging in the search for persons went missing during the Homeland War. O držana su dv a sastanka na temu regionalnih konzultacija o jačanju suradnje u procesuiranju ratnih zločin ai potrazi za nestalim osobama, kako slijedi:Two meetings took place on the subject of regional consultations about strengthening cooperation in the prosecution of war crimes and searching for missing persons, as follows: Na sastanku 15. veljače 2017. u Državnom odvjetništvuAt the meeting on 15 February 2017 at the Office of State Attorney General of the Republic of Croatia (ostali predstavnici: Tužiteljstv o/Tužilaštvo(other representatives: Prosecutor's Office of Bosne i Hercegovine , Tužilaštv o za ratne zločine Repub like Srbije, Vrhovno državno tužilaštvo Crne Gore, Uprava za zatočene i nestale Ministarstva hrvatskih branitelja, Komisija za nestale osob e Republike Srbije, Institut za nestale osobe Bosne i Hercegovine UNDP-a) postignuta je potpuna suglasnost oBosnia and Herzegovina, War Crimes Prosecutor's Office of the Republic of Serbia, the Supreme State Prosecutor's Office of Montenegro, Directorate for Detained and Missing Persons – Ministry for Croatian War Veterans, Commission for Missing Persons - Republic of Serbia, Institute for Missing Persons - Bosnia and Herzegovina, UNDP) full agreement was reached onvažnosti suradnje u pogledu razmjene informacij a koje the importance of cooperation in the exchange of information that mogu do vesti do identifikacije novih g robnica.U tom smislu, raspravljalo se o unapređenj u potrage za nestalim osobama i uspostavi sustav a za razmjenu informacij a između tužiteljskih ureda i državnih institucija s man datom za potragu za nestalim osobama.can lead to the identification of new graves. In this context,	

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		the participants discussed how to improve the search for missing persons and establish a system for the exchange of information between prosecutors' offices and state institutions tasked with searching for missing persons. Također se razgovaralo o stvaranju boljih uvje ta za koordinaciju zajedničkog r ada u predmetima ratnih zločinaThey also discussed how to create better conditions for the co-ordination of joint work on war crime cases kao io razmjen i saznanja o lokacijama ljud skih ostataka i informacija o nestalim osoba ma kao i o jačanju javne svijesti u potrazi za nestalim osobama.and for the exchange of information about the locations of human remains and about missing persons, and how to raise public awareness in searching for missing persons.	
		Na drugom sastan k u 18.-20.At the second meeting on 18-20 travnja 2017. , u Budvi , u Crnoj Gori ,April 2017 in Budva, Montenegro,raspravljalo se o suradnji tužiteljskih ureda i Ureda za traženje nestalih osoba pri čemu je zaključeno o neophodnost i they discussed the cooperation between prosecutors' offices and the offices that search for missing persons, and it was concluded that it was necessary to establish regional and inter-state cooperation as well as razmjen i informacija do kojih dođu navedeni akteri.the exchange of information that these actors come by.	
		P redstavnici Državnog odvjetništva Republike Hrvatske sudjelovali su ove godine na dvije konferencije pod imenom:Last year, the representatives of the Croatian State Attorney General's Office attended two conferences: *"Proces ekshumacija i identifikacija osoba nestalih na teritoriju Republike Hrvatske ""The process of exhumation and identification of persons missing in the territory of the Republic of Croatia"* (Zagreb, kolovoz) te (Zagreb, August) and *"E kshumacije i identifikacije posmrtnih ostataka nestalih osoba na području bivše Jugoslavije " "Exhumation and identification of the remains of missing persons in the territory of the former Yugoslavia"* (Beograd, prosinac) . (Belgrade, December) .	
		Državno odvjetništvo Republike Hrvatske sudjeluje u radu Povjerenstva Vlade Republike Hrvatske za zatočene i nestale iu radu	

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		Radne skupine za prikupljanje saznanja o nestalim osobama i neregistriranim grobnicama .The State Attorney General's Office of the Republic of Croatia participates in the work of the Government of the Republic of Croatia's Commission for Detained and Missing Persons and in the work of the Task Force on Missing Persons and Burial Sites. U tom smislu,In that regard s uradnja izmedu ovih akter j e vrlo dobra te se informacije o nestalim osobama redovito razmjenjuju.the interaction between these actors is very good and information on missing persons is regularly exchanged.	
77. Everyone involved must support the search for missing persons by providing relevant information and documentation at the national and regional level.	See paragraphs 10 to 12 of the report.	Government The process of seeking missing persons is conducted through close cooperation between all competent authorities, organizations and institutions: the Directorate for Detained and Missing Persons of the Ministry of the Croatian Veterans (which carries out professional and administrative tasks), the Ministry of Foreign and European Affairs, the Ministry of Interior, Ministry of Defence, Ministry of Justice, Ministry of Health, State Attorney's Office and Courts, Security Intelligence Agencies, State Administrative Offices in Counties, Scientific and Medical Institutions and the Croatian Red Cross. For the full participation of all competent authorities in the full scope, strategic planning, unambiguous definition of obligations and more effective coordination, the Government of the Republic of Croatia (May 2017) established the Croatian Government's Commission for the Detainees and Missing Persons, as an advisory and expert intermediate governmental body composed of representatives of all these bodies, institutions and organizations. In addition to the above mechanism (the Commission), having in mind that the key role in the search process is information on missing persons and undercover tombs, a special Task Force on Missing Persons and Burial Sites has been formed and is operating, composed of representatives of the bodies in whose jurisdiction is to collect findings and documents - Ministry of Interior, State Attorney's	The Working Group welcomes the creation of the Croatian Government's Commission for the Detainees and Missing Persons and the Task Force on Missing Persons and Burial Sites. It also notes that information gathered by these institutions should be shared with its counterparts at the regional level.

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		Office, civilian and military security agency. The scope of the task force includes all cases of missing persons in the territory of the Republic of Croatia. In this regard, the Directorate has all the information regarding missing persons and burial sites available to the competent authorities.	
78. Continue the regional dialogue on missing persons and initiatives aimed at finding solutions to properly solve the issue.	See paragraph 15 of the report.	Government Since 1991, the Republic of Croatia has been fully cooperating with international organizations and mechanisms established to ensure the resolution of missing persons issues - the International Committee of the Red Cross, mechanisms established at the United Nations (former UN Commission on Human Rights, the present Council of Human Rights and at some time by the Special UN Process for Searching for Missing Persons in the Former Yugoslavia established by the UN Working Group on Forced or Involuntary Disappearances), the International Criminal Tribunal for the former Yugoslavia, European monitoring mechanisms (PMEZ, OSCE),the International Commission on Missing Persons and numerous other international and humanitarian organizations. Assessing the approach with a positive mark and high standards reached by the Republic of Croatia in the process of seeking missing persons, international organizations have suspended the monitoring of the search for missing persons in the Republic of Croatia while the International Committee of the Red Cross closed the Office in Zagreb at the end of 2006 and transferred data and competencies to the competent bodies of the Republic of Croatia. The Republic of Croatia has been working with the International Commission on Missing Persons (ICMP) since its inception in 1996 and since 2004 has implemented the *Joint Project Identification by a DNA Analysis Method*, based on equality and partnership, which provides extremely good results in solving the cases of missing persons.	The Working Group acknowledges the efforts made by Croatia to enable regional dialogue with its neighbours and with international organizations on the issue.

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		Today, the Republic of Croatia participates actively and constructively in a "forum" where the ICMP and the ICRC participate with the responsible bodies of missing persons from the countries of the former Yugoslavia. Also, the Republic of Croatia through its competent bodies - the State Attorney's Office and the Directorate, participates in the UNDP project *"Enhancing Regional Cooperation in Processing of War Crimes and the Search for Missing Persons"* and implements agreed measures and recommendations (concluding international cooperation agreements in search of missing persons etc.). (*More in response to recommendation 76*).	
79. Implement fully the Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses, signed by Bosnia and Herzegovina, Croatia, Montenegro and Serbia.	See paragraph 15 of the report.	Government The Republic of Croatia was among the first to give full and constructive support to the initiative of the ICMP for the *Declaration on the State's Role in Resolving Missing Persons due to Armed Conflict and Human Rights Violations*, signed on 20 August 29 2014, in Mostar, whose principles and practices have been implemented in the work of bodies responsible for resolving cases of missing persons: - - the Republic of Croatia is a party to numerous treaties in the field of international humanitarian and human rights law; it has established and ensured the prerequisites for effective institutional mechanisms for seeking missing persons in war conflicts; - I - in order to protect and further affirm the rights of families of the missing persons to find out the truth about the fate of their members, in 2018, further improvement of the normative framework is planned, amongst which the most significant is the passing of the law on missing persons; - - human and technical resources as well as a methodology of work are continuously being developed and improved (funded from the	The Working Group appreciates the efforts made by the Government to implement the Declaration though notes that more efforts should be made to fully implement it at regional level, notably when it comes to its article 7 related to the prosecution of war crimes.

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		State Budget); - - special attention is devoted to the families of the missing persons and to the associations that bring them together and with whom the partnership is developing; - - the Republic of Croatia, through the competent authorities, aims to improve transnational cooperation (international agreements with Bosnia and Herzegovina and Montenegro have been concluded in 2017); cooperates in a constructive manner with international organizations, conducts joint projects based on equal and partner relationships; through the mechanism of development of cooperation and humanitarian aid, the acquired knowledge and experience is transferred to other states and organizations. - I In accordance with positive regulations (in line with EU legislation), the Republic of Croatia collects, manages and protects data on missing persons and carries out exhumation and identification of remains, applying the most up-to-date methodology and the highest standards. ICMP On 29 August 2014 at a historic event hosted by ICMP, Chair of the Presidency of Bosnia and Herzegovina Bakir Izetbegović, President of the Republic of Croatia Ivo Josipović, President of Montenegro Filip Vujanović, and President of the Republic of Serbia Tomislav Nikolić signed the Declaration in Mostar, BIH. The purpose of the Declaration is to define the best practice principles to help guide States in accounting for the missing from conflict and human rights abuses. The first signatories include those countries and their successor states that were party to the Dayton Peace Agreement. Of the 40,000 persons missing from the armed conflicts of the 1990s in the former Yugoslavia, more than 70 percent have been accounted for. This is unprecedented in any post-conflict context anywhere in the world. By signing the declaration, BIH, Croatia, Montenegro and Serbia	

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		demonstrated the growing ability of States to assume ownership of the process of accounting for large numbers of missing persons, through their domestic institutions and through specialized international organizations, such as ICMP. The Declaration highlights the primary responsibility of State authorities in addressing the issue of the missing and the need to ensure that mechanisms and methods employed conform to human rights standards and the rule of law. In addition, the Declaration seeks to ensure that the rights of family members of the missing are upheld at all times, and that survivors and society as a whole have access to information regarding the fate of the missing and that proper investigations are undertaken in the pursuit of truth and justice. The Declaration seeks to ensure that past wrongs are addressed through accountable and just State institutions. The Declaration is being implemented fully by signatory states. All signatory states have demonstrated the primary responsibility of the state in the process of accounting for the missing (Article 1). All signatory states continue to uphold the rights of survivors to know the fate of their missing relatives, by conducting effective investigations into missing-persons cases (Article 2). All signatory states have built effective domestic institutions, i.e. government commissions on missing persons (Article 3). All signatory states are cooperating regionally and internationally for the purpose of elucidating the fate of the missing (Article 4). All signatory states are implementing measures that conform to the requirements of human rights obligations and the rule of law, including those of the criminal justice system (Article 5). All signatory states, through effective investigations, are addressing the need to establish the circumstances surrounding disappearances and the issue of impunity (Article 6). All signatory states have established dedicated war crimes prosecutor's offices, thereby emphasizing the role of the judiciary (Article 7).	
80. Improve cooperation in accordance with the 1996 bilateral protocol between	See paragraphs 42 and 43 of the report.	Government The Republic of Croatia, through the Directorate for Detained and	The WGEID is concerned about the information received to the effect that the bilateral cooperation with Serbia,

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Croatia and Serbia.		Missing Persons of the Ministry of the Croatian Veterans, is still searching for 1,130 unresolved cases of Croatian soldiers and civilians missing and killed in 1991/92 in the armed Greater Serbian aggression against the Republic of Croatia *(see response to recommendation No. 73).* The key obstacle to addressing the highlighted cases is the lack of information on unregistered, undercover mass and individual graves in former occupied territories of the Republic of Croatia, as well as on secondary graves in which the remains of the victims have been organized and systematically moved. The competent authorities of the Republic of Croatia continuously and intensively undertake efforts to find them - from the acquisition of the most modern equipment and the improvement of the field research methodology, the strengthening of inter-agency cooperation and analytical activities, the conduct of informative campaigns for public awareness etc. However, significant progress can only be expected with the full cooperation of the Republic of Serbia, which has documentation on forced disappearances in the 1990s war on the territory of the Republic of Croatia and in whose area witnesses to these missing persons reside. Therefore, the Republic of Croatia, since 1995, highlights the following requirements, which were recently submitted during a working session on December 8 2016, in Belgrade: Request for notification / information on missing persons and primary and secondary mass and individual graves in early occupied territories of the Republic of Croatia; Request for return and delivery of documentation: return documentation from Vukovar Hospital, Borovo Commerc, identification protocols and other, Request for further exhumation in the territory of the Republic of Serbia: continuation of exhumation of registered graves and	while still formally in place, has reached a stalemate. It notes though that the Directorate for Detained and Missing Persons of the Ministry of the Croatian Veterans continues to conduct activities aimed at resolving cases of all missing persons in the territory of the Republic of Croatia, regardless of their nationality.

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		identification and exhumation of unregistered graves. The Republic of Serbia has not made any progress in addressing these requirements. Since the visit of the UN Working Group on the issue of forced disappearances (June, 2014), the Republic of Serbia has not responded to any inquiry from the Directorate regarding the information on missing persons/places of tombs of Croatian war veterans and civilians missing and killed in 1991/92nd in the aggression against the Republic of Croatia, and in the activities of the competent authorities of the Republic of Serbia not one case of missing persons was resolved in that period. At a working session between the representatives of the Directorate and the Commission of the Government of the Republic of Serbia for Missing Personnel on 8 December 2016, both sides exchanged requests for resolving cases of missing persons. From that meeting, the Republic of Serbia not only did not make progress in solving the cases of missing persons from the Republic of Croatia, but also did not undertake any activity for that purpose, as opposed to the Directorate responding to received claims. In this respect, the Republic of Serbia does not implement bilateral acts on cooperation with the Republic of Croatia. Serbia denies jurisdiction to deal with cases of missing persons from the Republic of Croatia, although in the verdict of the International Court of Justice (ICJ) on the Prosecution of the Republic of Croatia against the Republic of Serbia (February 2015) is stated "*persuading Serbia to fulfil its responsibilities in the process of cooperation with Croatia in order to address the issue of missing persons as soon as possible*". Therefore, the Republic of Serbia needs to be committed to full cooperation in dealing with the issue of missing persons, including access to military archives as well as a more proactive approach to investigations of cases of mass and individual disappearances occurring in the territory of the Republic of Croatia (and BIH) and	

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		the witnesses and/or perpetrators of those disappearances, located in the territory of the Republic of Serbia. It includes also the activities that will ensure finding of sites of mass and individual graves, within an investigation into war crimes whose victims are still considered missing, At the same time the Directorate (regardless of the non-progress of the Republic of Serbia), unilaterally initiates and conducts activities aimed at resolving cases of all missing persons in the territory of the Republic of Croatia, regardless of their nationality, which will continue in the forthcoming period. Specifically, since the visit of the UN Working Group (June 2014), the Directorate has initiated and implemented the following activities, which, from a humanitarian point of view, are also relevant for the competent authorities of the Republic of Serbia: remains of 123 people buried in 1995 in sanitized cemeteries were exhumed; the final identification of the remains of 118 persons exhumed from the sanitized cemeteries was organised and executed; funeral care was organized for all identified persons and according to the wishes of the family, the remains of 55 persons were buried in the territory of the Republic of Serbia; remains of six (6) Serbian nationals killed in aggression against the Republic of Croatia were handed over to the Republic of Serbia; the requests of the competent authorities of the Republic of Serbia for the implementation of field investigations of possible places of burial of missing persons was responded to.	
81. Offer more in-service training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international		Government *The Annual Continuous (In-service) Training Programme of the Judicial Academy* is approved by the Steering Council of the JA. It is based on the information provided from courts, the Office of the State Attorney General and all the directorates of the Ministry of Justice. In its development, all the commitments stemming from	The WGEID regrets that training of judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international instruments on human rights and humanitarian law is not yet offered but takes note of the

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instruments.		various national strategies, action plans and internationel projects are duly taken into consideration. This Recommendation will be taken into account in the development of future annual training programmes of the JA.	plans to include such trainings in the forthcoming programs of the Judicial Academy and looks forward to receiving information about their implementation.
82. Immediately open archives that are relevant to cases of enforced disappearances in order to facilitate the localization of undiscovered gravesites and speed up the search for missing persons.	See paragraph 12 of the report.	Government As regards Croatia's treatment of the relevant information on the missing persons in the archives, we emphasize the following: the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans collects and consolidates findings relevant to the resolution of cases of missing persons from all available sources, among which the most relevant (according to the number of collected data) are the competent authorities of the Republic of Croatia (the Ministry of Interior, competent State Attorney's Offices, competent courts as well as the civil and military security agency). As highlighted in response to Recommendation 77, for the purpose of clarification of all cases of missing persons, irrespective of their origin and nationality, the Directorate established a "*Working Group for Collecting Information on Missing Persons and Grave Sites*" whose members are representatives of the mentioned bodies. In that sense, the Directorate has all the information about the missing persons and the grave sites which are available to the competent state and judicial bodies and they are continuously being investigated. However, as pointed out in responses to recommendations no. 73, 75 and 80, a key obstacle to progress in solving missing persons cases is denial of the Republic of Serbia that it has information on missing persons in its archives. However, the fact that the Republic of Serbia does possess the documentation on missing persons from the Republic of Croatia for the period of 1991/92 is confirmed, among other things, by the statement of the Commission of the Government of the Republic of Serbia for Missing Persons (2006) according to which *"the progress in solving open issues can be expected in accordance with the Decision of the National Council for*	The Working Group notes that the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans collects relevant information for clarifying cases of missing persons from a number of competent authorities. However, it has not received information as to whether relevant archives are in fact open and accessible.

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		cooperation with the ICTY on the opening and declassification of documentation in the Military Archives", from which it subsequently distanced itself.	
B. Recommendations to Croatia 83. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and recognize the competence of the Committee, under articles 31 and 32 of the Convention, to receive and consider communications from individuals and inter-State communications.	See paragraph 26 of the report.	Government Considerations on the ratification of the Convention are still ongoing. Croatian Law Centre Croatia has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance. Furthermore, as far as we know, the question of ratification of the Convention has not been put on Parliamentary nor Government agenda so far. On International Day of the Disappeared – August 30th 2017 – NGO Documenta – center for dealing with the past, called the Government of Croatia to ratify International Convention for the Protection of All Persons from Enforced Disappearance.	The Working Group is concerned with the fact that Croatia has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance. The Working Group reiterates its call on the Government to ratify the Convention and to recognize the competence of the Committee on Enforced Disappearances under articles 31 and 32 of the Convention to receive and consider communications from individuals and inter-State communications.
84. Establish enforced disappearance as a separate offence in accordance with the definition contained in the Declaration on the Protection of All Persons from Enforced Disappearance. The offence of enforced disappearance should be punishable by appropriate penalties that take into account its extreme seriousness.	See paragraph 27 of the report.	Government In addition to the provision of Article 90 of the *Criminal Code* referred to in paragraph 27 of the Report of the UN Working Group, it is necessary to point to the provision of Article 136 of the *Criminal Code* entitled as *Unlawful Deprivation of Liberty*, reads as follows: *(1) Whoever unlawfully detains another, keeps detained or in some other manner deprives another person of the freedom of movement or restricts it, shall be punished by imprisonment not exceeding three years.* *(2) Whoever unlawfully deprives another of liberty with the aim to force him or her to do or omit to do something or to suffer, shall be punished by imprisonment from six months to five years.* *(3) If the criminal offences referred to in paragraphs 1 and 2 of this Article were committed against a child, against a person with severe*	The Working Group reiterates the recommendation formulated after the visit to establish the crime of enforced disappearance as a separate offence in the criminal legislation in accordance with the Declaration.

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		disabilities, against a close person or unlawful deprivation of liberty lasted longer than fifteen days or was carried out in a cruel way, or if the person unlawfully deprived of liberty suffered a severe bodily injury, or if unlawful deprivation of liberty [illegible] committed by a public official in the performance of his or her functions or the exercise of public authority, the perpetrator shall be punished by imprisonment from one to ten years. *(4) If the criminal offences referred to in paragraphs 1, 2 and 3 of this Article caused the death of a person who was unlawfully deprived of liberty, the perpetrator shall be punished by imprisonment from three to fifteen years.* *(5) A perpetrator who of his or her free will releases a person who was unlawfully deprived of liberty before he or she achieves the goal referred to in paragraph 2 of this Article may be exempted from punishment.* *(6) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.* It is noticeable from the content of the provision in question that the forced disappearance of a person is predicted as a criminal offence and that adequate punishment is prescribed for such conduct. We also note that para 3 prescribes the qualified form of this criminal offence that exists when it was committed by a public official in the performance of his or her functions or the exercise of public authority.	
85. Consider enforced disappearance a continuing offence in accordance with article 17 (1) of the Declaration on the Protection of All Persons from Enforced Disappearance, which requires that "acts constituting enforced disappearance shall be	See paragraphs 26 and 27 of the report.	Government Pursuant to Article 8 para. 2 of the *Criminal Code* - if the perpetrator's activity consists of several time-separated actions, the offence is committed on the day of the last act and in the offences where the act lasts, on the day of the termination of the act. Consequently, for perpetual crimes such as those of Article 136 of the *Criminal Code*, the commission of unlawful deprivation of liberty will last for a whole period of deprivation of liberty, and will be	The Working Group reiterates the recommendation formulated after the visit on the matter. See also previous observation related to recommendation 84.

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considered a continuing offence as long as perpetrators continue to conceal the fate and whereabouts of persons who have disappeared".		materially completed when the victim is released or dies, and from that moment onwards will begin the statute of limitation.	
86. Recognize the status of families of missing persons by law and guarantee their rights in a non-discriminatory manner.	See paragraphs 60, 61 and 64 of the report.	Government The status of the veteran population is regulated by the *Act on the Croatian Homeland War Veterans and their Family Members* (OG 121/17). Regarding the civilian war victims, improvement of the legislative framework is planned that will also include resolving the disputed issues of family members of the missing persons. In relation to the Decision of the Minister of Croatian Veterans of 20th September 2017, *a Working Group for analysis of the current situation and development of a Draft Proposal of the Act on the Rights of Military and Civilian War Victims and their Family Members* was appointed with the task to analyze the current situation and detect problems concerning the protection of civilian war victims, and to propose a new legal arrangement that will improve or equalize the rights of war victims and enable adequate care for people who have not yet been recognized through the existing legislative framework.	The Working Group considers that the "Draft Proposal of the Act on the Rights of Military and Civilian War Victims and their Family Members" should be prepared in consultation with relatives of the disappeared and relevant civil society actors and adopted as soon as possible.
87. Ensure that all victims receive equal treatment, without discrimination on any grounds, and ensure that authorities adopt a non-discriminatory approach in all measures they take to solve the issue of missing persons.	See paragraph 60 of the report.	Government The process of seeking persons missing in the territory of the Republic of Croatia during the Homeland War managed by the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans is conducted independently of the origin of the victims, their nationality, religion or other characteristics. In the process of recording missing persons, regardless of the time of disappearance, the Republic of Croatia has fully accepted and	The Working Group acknowledges the efforts made by the Government and urges it to adopt the "Act on Missing Persons from the Homeland War" as soon as possible and thus ensure that the victims' rights are fully respected in line with the recommendation formulated after the visit.

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		implemented the principles of the ICRC, and as it was presented to the UN Working Group during its visit- all missing persons irrespective of their nationality, origin, religion or any other the characteristics are recorded according to the same standards and instruments. The list of persons missing in the territory of the Republic of Croatia was published in "*The Book of Persons Missing in the Territory of the Republic of Croatia*", the four editions of which were published in cooperation with the Directorate, the ICRC and the Croatian Red Cross, which is an additional guarantee of its credibility. Furthermore, key processes in addressing missing persons cases - exhumation and identification of remains - are conducted without discrimination on any grounds, as confirmed by the following data - since 2014 when the UN Working Group visited the Republic of Croatia, of the total number of exhumed mortal remains, 89% are persons of Serbian nationality, while of the total number of persons identified in the same period the share of persons of Serbian nationality is 78%. If the last ten-year period is observed, the data are as follows: of the total number of exhumed mortal remains, 81% are persons of Serbian nationality, while of the total number of identified persons in the same period the share of persons of Serbian nationality is 69%. The Republic of Croatia applies the principle of non-discrimination also during burial of identified persons - all identified persons are buried in accordance with the wishes of their families and the costs of their funeral are borne by the Republic of Croatia. Regarding the issue of establishing equal status for war victims irrespective of the status of their missing family members, which is partly reflected in their material rights, in the first place it is necessary to lay down clear legal foundations. Regulation or equalization of rights is only possible by a law that prescribes the rights of war victims on the grounds of the loss (missing) of a family member. This has just been started through setting up of a Working Group which, among other things, has the task of drafting a new	

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		legislative framework. Apart from the above mentioned, and since there is no law in the Republic of Croatia that regulates the issue of missing persons in the Homeland War, according to the proposal of the Ministry of Croatian Veterans, the Government included in the annual Plan of Legislative Activities for 2018 the *Act on Missing Persons from the Homeland War,* which will establish the appropriate legal framework for resolving the issues of missing persons. General information about discrimination. When it comes to the principle of non-discrimination, the Office for human rights and rights of national minorities points that the *Antidiscrimination Act* prohibits discrimination on the grounds of race or ethnic affiliation or colour, gender, language, religion, political or other belief, national or social origin, property, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, native identity, expression or sexual orientation. According to the art. 8. the *Antidiscrimination Act* shall apply to the conduct of all state bodies, bodies of local and regional self-government units, legal persons vested with public authority, and to the conduct of all legal and natural persons. There are number of specifically indicated areas where the Act is compulsory to apply. Additionally, the new *National plan to combat* *discrimination 2017-2022*, that serves as a strategic support to the Antidiscrimination Act, will bring a new contribution in raising general awareness about the importance of non-discrimination principle in all procedures and fields, as well as in those related to settling issues concerning enforced and involuntary disappearances.	
88. Ensure that all victims of enforced disappearance obtain full reparation, including restitution, rehabilitation, satisfaction and guarantees of	See paragraph 64 of the report.	Government For members of the families of missing Croatian war veterans from the Homeland War adequate material care was ensured through existing legal framework, i. e. they have been aligned in the scope of	The Working Group reiterates to the Government that all victims should receive full reparation. Families of the disappeared should also be able to receive a certificate of absence –or an

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non-repetition, without discrimination and without having to declare the disappeared person dead.		their rights with other, similar categories (war victims, members of the veteran population). In relation to civilian victims a comprehensive approach has just been envisaged as well as solving long-standing problems - through a new legal framework and in accordance with the principles of solidarity and equality, adequate protection and care to all civilian war victims will be provided. Activities on this issue have begun with the establishment of the mentioned Working Group the task of which is to analyse the situation and to propose a new legal framework.	equivalent document - as a result of the disappearance of their loved-ones.
89. Improve the current system of reparations, ensuring that it provides for a comprehensive, detailed and non-discriminatory gender-sensitive programme of reparations.	See paragraphs 59-68 of the report.	Government Improving the care system for civilian war victims can only be achieved by adopting a new, appropriate legislation which is planned and for which the mentioned Working Group has been established. Regarding the gender-sensitive approach, all benefits that, in accordance with the applicable legislation, are determined on the basis of a person's war injury (except in the case of victims of war-related sexual violence where a gender sensitive approach was applied at determining the form of sexual violence and certain benefits in agreement with the *Law on the Rights of Victims of Sexual Violence During an Armed Aggression on the Republic of Croatia in the Homeland War,* 2015) are determined according to physical impairment, family ties or loss of a family member, difficult material circumstances etc. In accordance with the principle of equality the benefit is determined by the objective criteria, irrespective of the gender characteristics of the person.	See observations for recommendations n° 87 and 88.
90. Ensure equitable allocation of existing funds for civilian victims of war and reduce the differences in the budget for civilian and military victims of the war.	See paragraphs 59-60 of the report.	Government This can only be achieved by a law which will equalize rights of the same kind and accordingly, by continuously providing funds in the State Budget for the implementation of the above mentioned. In this regard, the creation of a new legislative framework to resolve issues of civilian war victims is entrusted to the newly established Working	See observations for recommendations n° 87 and 88.

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		Group. Before the new law is drafted, a process of assessing the effects of this regulation will be conducted, whereby, among other things, the fiscal effects of the prescribed rights will be assessed and, accordingly, adequate funds will be secured.	
91. Address the possible misidentifications made in the past, provided that the right to privacy of the families of victims of enforced disappearances are fully respected and that the DNA data are protected with the utmost care. A review process should be commenced to remove the obstacles to the ongoing identification work.	See paragraph 36 of the report.	Government According to the official records of the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans (15 January 2018), of the total number of exhumed mortal remains (5,131), 82% of the victims (4,196) were identified and given to the families. Unidentified mortal remains are processed by classical forensic medical methods and subjected to DNA analysis which was successfully completed in 90% of cases (genotype identified) and were temporarily, until identification, stored in one of two common tombs built for this purpose, which also serve as places of memory: *City Cemetery "Mirogoj" in Zagreb* (visited by the UN Working Group during a visit to the Republic of Croatia in June 2014) and *Central Cemetery in Osijek* The reasons for the absence of identification are: absence or lack of blood relatives' blood samples (in most cases); the state of mortal remains (burns, small fragments) because of which it is not possible to determine the genotype (in a number of cases) due to degraded DNA; misidentification in the period when identification was performed by classical forensic medical methods (in a small number of cases). In order to increase the efficiency of the identification process, the Directorate: systematically and permanently collects additional blood samples from relatives of missing persons; provides preconditions for the processing of mortal remains with the	The WGEID notes the efforts made by the Directorate for Detained and Missing Persons of the Ministry of Croatian Veterans to address past misidentifications, while emphasizing that this is an issue that needs to be tackled at regional level.

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		most recent reagents; conducts a *Joint Project of identification by DNA analysis method with the ICMP;* at the initiative of the Directorate, the cooperation within the *Joint Project* was further expanded. In a small number of cases, the obstacle to identifying mortal remains are misrecognitions that resulted in misidentification based on classical forensic medical methods. Because of the special sensitivity of these cases they are resolved individually, in accordance with positive regulations and processing findings, i.e. operational knowledge. For the purpose of resolving cases of misidentification, the Directorate has: established a *Working Group* for resolving complex case identifications (2014); prepared a *Protocol for resolving subsequent re-association, misrecognition and identification cases, supported by associations of families of missing persons (2015);* carried out a revision of all exhumed, unidentified mortal remains at their temporary storage sites (2017) and the implementation of the recommendations of that audit is undergoing. Following the latest achievements, the Directorate will improve and adapt its approach according to the needs. ICMP The interrelated issue of NN (no name) cases and misidentifications dating from before ICMP's introduction of a DNA-led process in 2001 is a major regional impediment to identifying missing persons. There are more than 3,000 NN cases stored in mortuaries in BIH;	

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		around 900 in Croatia[6], 400 in Kosovo, and approximately 450 NN cases buried in municipal plots in Serbia. ICMP has obtained DNA profiles from the NN cases in BIH and Kosovo; however, these do not match any of the thousands of sets of genetic references collected from families who are still searching for their missing relatives. Croatia reports that it has made efforts to identify its NN cases, but without success. The unresolved status of NN cases contributes to suspicions between states, and this exacerbates tensions in the region and undermines regional cooperation to address the very issue of missing persons from the conflicts in the former Yugoslavia. Where identifications are carried out using traditional methods, misidentifications may take place, despite the authorities' best efforts. It is especially difficult to achieve accurate results by traditional methods when applied to large numbers of mortal remains recovered long after death in complex commingled sites. Misidentifications have a compound effect on efforts to account for all the missing. When a body is misidentified, the family that has incorrectly received the body in many instances will not have provided family DNA reference samples. Therefore, the actual mortal remains of their family member, if located, will remain unidentified. And the family whose missing relative's remains were misidentified and released incorrectly to another family will not resolve their case even if they have provided DNA reference samples since their relative is buried under someone else's name. A higher proportion of misidentifications may contribute to an increased number of unidentified mortal remains in mortuaries.	

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[6] On 14 August 2018, the Government of Croatia provided the following information: "We would like to draw your attention, that in the context of the introduction of a DNA-led process in 2001 and the problem of misidentification, it is not correct to mention 900 NN cases in Croatia, because the DNA process has been introduced in Croatia since 1994. So, the identification methodology before 2001 was different in Croatia from the methodology in other countries. The result is that the scale of this problem is smaller in the Republic of Croatia."

Recommendations *(A/HRC/30/38/Add.3)*	*Situation during the visit* *(A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
92. Expedite the process of war crimes prosecutions.	See paragraphs 46-50 of the report.	Government The relevant County State Attorneys of the Republic of Croatia are continuing their activities in the war crimes cases, and the information about such activities is regularly published on the State Attorney General's website, the latest such information and statistics having been published on 18 September 2017: (*http://www.dorh.hr/DrzavnoOdvietnistvoRepublikeHrvatskeProcesuiranie*)http://www.dorh.hr/DrzavnoOdvietnistvoRepublikeHrvatskaProcesuiranie Dana 21. travnja 2015. Glavni državni odvjetnik Republike Hrvatske Dinko Cvitan, Glavni Tužilac Bosne i Hercegovine Goran Salihović i Tužilac za ratne zločine Republike Srbije Vladimir Vukčević te Rezidentni koordinator Ujedinjenih naroda u Bosni i Hercegovini YuriOn 21 April 2015, State Attorney General of the Republic of Croatia Dinko Cvitan, Chief Prosecutor of Bosnia and Herzegovina Goran Salihović and War Crimes Prosecutor of the Republic of Serbia Vladimir Vukčević and United Nations Resident Coordinator in Bosnia and Herzegovina Yuri Afanasiev potpisali su Smjernice za unapređenje regionalne suradnje za procesuiranje ratnih zločina i traganja za nestalim osobama i uspostavu koordinacijskog mehanizama.Afanasiev signed the *Guidelines for the Advancement of Regional Cooperation in Processing War Crimes and Searching for Missing Persons and the Establishment of Coordination Mechanisms.* Navedene su Smjernice potpisane nastavno na ranije potpisane Protokole, Memorandume i Sporazume između Tužilaštava Bosne i Hercegovine, Državnog odvjetništva Republike Hrvatske i Tužilaštva za ratne zločine Republike Srbije (koje Radna Skupina UN-a o prisilnim ili nedobrovoljnim nestancima posebice hvali), u cilju osiguranja nastavka i unaprjeđenja daljnje suradnje navedenih pravosudnih tijela U procesuiranju predmeta ratnih zločina pri čemu Misija Ujedinjenih naroda kroz Razvojni Program Ujedinjenih	The Working Group notes the signature of the "Guidelines for the Advancement of Regional Cooperation in Processing War Crimes and Searching for Missing Persons and the Establishment of Coordination Mechanisms". However, apart from regional meetings, little progress in prosecuting war crimes seems to have been achieved.

Recommendations (A HRC 30 38 Add.3)	Situation during the visit (A HRC 30 38 Add.3)	Measures taken current situation	Level of implementation and observations (to be completed by the WGEID)
		naroda (UNDP-a) u Bosni i Hercegovini osigurava logističku podršku radi tehničkog i financijskog pružanja pomoći u okviru potpisanih protokola, memoranduma i sporazuma, pri čemu se ne zadire u neovisnost rada i postupanja Državnog odvjetništva Republike Hrvatske i drugih potpisnika.The Guidelines have been signed in line with the previously signed Protocols, Memorandums and Agreements between the Prosecutor's Office of Bosnia and Herzegovina, the State Attorney's Office of the Republic of Croatia and the War Crimes Prosecutor's Office of the Republic of Serbia (whose documents are particularly commended by the UN Working Group on Forced or Involuntary Disappearances), with a view to advancing further co-operation between the judicial bodies in the prosecution of war crimes, in which the UN Mission to Bosnia and Herzegovina, through the United Nations Development Program, provides logistical support for technical and financial assistance under the signed protocol, memoranda and agreements signed, without interfering with the independence of the work of the State Attorney's Office of the Republic of Croatia and other signatories. Nakon potpisivanja Smjernica održan je niz sastanaka glavnih tužitelja i zamjenika koji rade na predmetima ratnih zločina kao i predstavnika ureda za traganje za nestalim osobama iz svih triju zemalja, sve u cilju učinkovitije suradnje izmedu tužitelj stava navedenih zemalja u procesuiranju ratnih zločina te daljnjeg osnaživanja kapaciteta potraga za osobama koje su nestale tijekom ratnih sukoba.Following the signing of the Guidelines, a series of meetings took place between chief prosecutors and their deputies working on war crimes cases, as well as of the representatives of the offices searching for missing persons from all three countries with a view to achieving more effective co-operation between the prosecutors from these countries in prosecuting war crimes and further strengthening the capacity for searching for the persons gone missing during the war conflicts.	

Recommendations (A/HRC/30/38/Add.3)	*Situation during the visit (A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
93. Initiate a vetting process to identify all government officials who were allegedly involved in the commission of war crimes. Improve and systematize vetting measures in the recruitment and appointment of State officials.	See paragraph 51 of the report.	Government The Republic of Croatia would like to state that all war crime investigations and processes have been conducted in line with the principle of non-discrimination.	The Working Group reiterates the relevant recommendation formulated on the matter after the visit in 2014.
94. Pay equal attention to all victims regardless of their nationality in respect of memorials. This principle needs to be integrated in future activities related to this aspect of reparations.	See paragraph 66 of the report.	Government The Republic of Croatia has not completely regulated the construction of the memorials of the Homeland War - it is carried out on the basis of various general regulations on the construction of objects or the regulations of property and legal relations. The Ministry of Croatian Veterans co-finances the construction, erection and decoration of memorials related to the Homeland War, however without possibilities to follow other activities related to these objects. In relation to this, the Government at the proposal of the Ministry of Croatian Veterans, in its annual Legislative Plan for 2018, included the *Law on Memorials of the Homeland War.* This will, in a transparent way, address the issues of erecting the memorials, i.e. prescribe the procedure and equalize the criteria for their installation, as well as establish a unique base for these objects. The aforementioned law is to regulate the construction and establishment of memorials related to the Homeland War and positively influence the protection and preservation of the dignity or promotion of values of the Homeland War. This is also supported by the *Strategic Plan of the Ministry of Croatian Veterans for the period 2017 - 2019*, through the General (Preservation of the Acquisitions and Mitigation of the Negative Consequences of the Homeland War) and Special Objective: Preservation of the Dignity and Promotion of the Value of the Homeland War.	The Working Group welcomes the Government's intention to adopt the "Law on Memorials of the Homeland War", although it has not received information to the effect that memorials will be erected on behalf of all victims regardless of their nationality or ethnicity.
95. Develop educational materials that promote pluralism		Government	The Working Group welcomes efforts by the Ministry of Science and

Recommendations (A/HRC/30/38/Add.3)	*Situation during the visit (A/HRC/30/38/Add.3)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
and teach history from an objective perspective in order to combat ethnic polarization and ethnic discrimination.		The *Ministry of Science and Education* by its educational policy - within the school books as well as through the implementation of the professional training and through the support of the programs of extra-institutional education - encourages pluralism and teaching of history in the objective manner in order to prevent ethnic polarization and ethnic discrimination. The *Ministry of Science and Education* in cooperation with the *Agency for Science and High Education* gives a special attention to strengthening the education based on universally accepted values and human rights principles (solidarity, free speech, anti-discrimination, pluralism, democracy, rule of law, tolerance and equality).	Education to improve educational policies accordingly.
96. Conduct a thorough analysis of the above-mentioned obstacles to the implementation of the Act on the liability of the Republic of Croatia for damage caused by members of the Croatian army and police, with the aim of ensuring the effective implementation of the Act.	See paragraph 63 of the report.	Government In the part of the recommendations related to the efficient investigation of war crimes and application of the *Act on the liability of Croatia for damage caused by members of the Croatian Army and Police during the Homeland War*, the Constitutional Court will take into account the Recommendations of the Working Group in addressing the cases of individual constitutional control (constitutional complaints).	The Working Group regrets that no progress has been achieved so far in relation to this recommendation and takes note that the issue will be examined by the Constitutional Court.
97. Reconsider the option of merging the Office of the Ombudsperson and the three specialized Ombudsmen with the aim of rationalizing. Parallel to this, the plan to make the Ombudsperson more accessible to citizens by opening field presences should be supported.	See paragraph 68 of the report.	Government As a commissioner of the Croatian Parliament responsible for the promotion and protection of human rights and freedoms and the performance of the mandates of the *National Equality Body* as well as the *National Preventive Mechanism for the protection of persons deprived of their liberty*, the *Ombudswoman* acts within her competences laid down by the *Constitution of the Republic of Croatia, the Ombudsman Act, the Anti-discrimination Act and the Act on the National Preventive Mechanism*. However, apart from the constitutional category of ombudsman, Croatian legal framework set up in 2003 institutions of ombudsman for gender equality and ombudsman for children and in 2008 ombudsman for persons with	The Working Group welcomes the opening of field presences of the Ombudsperson's office and takes note of efforts at improved coordination between all ombuds institutions.

Recommendations (A/HRC/30/38/Add.3)	Situation during the visit (A/HRC/30/38/Add.3)	Measures taken/current situation	[illegible] completed by the WGEID)
		disabilities. The cooperation between all ombuds institution has always been very good. Each of the institution is well recognized in the public and has developed skills and expertise in relation to issues they cover, creating a network of stakeholders (civil society members) they regularly cooperate with and whose support they enjoy. Furthermore, the support of NGOs for each institution and institutions themselves were very much against the merger proposed at the time. In order to further strengthen cooperation between Ombudswoman office and specialized ombudswomen, the Ombudsman Act from 2012 has prescribed in the Article 32 cooperation between them. Consequently, Agreement between these four institutions has been signed setting the framework of cooperation: it particularly highlights cooperation in reference to citizen's complaints, visits to places where persons are deprived of their liberty, research, anti-discrimination area, education of staff and in various projects. Within this framework, Ombudswomen regularly meet and discuss challenges in relation to protection and promotion of human rights in the Republic of Croatia. In reference to the plan to make the Ombudsperson more accessible to citizens by opening field presences, during 2014 and 2015 three regional offices have been opened: in Rijeka, Split and Osijek. Additionally, according to the Annual Report for 2016, the Ombudswoman and her staff have been more present in field: eg Roma settlements, local and regional units (in 2016 they visited more than 50 municipalities and cities all over Croatia). This is also reflected in their work: in 2012 they have been working on 2924 case, while in 2016 they worked on 5433 cases.	

IV. Montenegro

25. On 12 December 2017, the Working Group requested the Government of Montenegro to provide information on measures taken to implement the recommendations that were made in the report A/HRC/30/38/Add.2 (paras. 64-87), after its visit to the country from 27 to 30 June 2014. On 9 February 2018, the Government of Montenegro provided the requested information. On 18 July 2018, the Working Group sent the below table for comments to the Government of Montenegro, which provided additional information on 15 August 2018.

26. The Working Group thanks the Government of Montenegro for the cooperation throughout the process of the follow-up report.

27. The Working Group appreciates the efforts of the Government to implement the International Convention for the Protection of All Persons from Enforced Disappearance. However, it reminds Montenegro that the crime of enforced disappearance should be established as a separate offence in the criminal legislation in accordance with the Declaration and the Convention, to which Montenegro is a party. It also recalls that the offence should be treated as continuous in nature and be punishable by appropriate penalties that take into account its extreme seriousness, as also recommended by the Committee on Enforced Disappearances upon consideration of the report of Montenegro under the Convention (CED/C/MNE/CO/1, paras. 8-11).

28. The WGEID notes that in 2015 the Supreme State Prosecutor adopted a Strategy for Investigating War Crimes with the aim of improving efforts to address impunity for war crimes. However, little progress has been achieved in terms of investigation and prosecution of war crimes, both for pending and new cases. The information received about a restrictive interpretation of the law, which has led to acquittal in some cases and lenient conviction to low cadres only in other, is of particular concern. The Working Group calls on the prosecutorial authorities to be more proactive and encourages the Government to support efforts to fight impunity for war crimes, including enforced disappearances, as also recommended by the Committee on enforced disappearances (CED/C/MNE/CO/1, paras. 16-17).

29. The WGEID notes the information that all cases of compensation for victims of war crimes before the Montenegrin courts have been resolved and that, in total, 5,714,656.20 euros of compensation was granted. However, the WGEID would appreciate receiving more detailed information on how many of these cases concerned victims of enforced disappearances and the number of lawsuits where perpetrators were identified and sentenced in parallel criminal proceedings.

30. The Working Group notes the Government's efforts to meet the recommendation to set up a programme of comprehensive reparation that includes not only compensation but also restitution, rehabilitation, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition. It wishes to emphasize though the need for more to be done in this regard, in the light of the fact that only economic compensations have been paid so far.

31. The WGEID recommends that a category of *relative of missing person* is included in Article 12 of the Law on Free Legal Aid.

32. The WGEID regrets that training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international instruments on human rights and humanitarian law is not offered yet.

33. The WGEID reiterates its compliments to Montenegro for having been the first – and so far the only – country which has provided the Working Group in February 2016, outside the follow-up process, with specific information on the measures taken or to be taken to implement the recommendations contained in the country visit report.

Follow up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its country visit to Montenegro from 27 to 30 June 2014 (A/HRC/30/38/Add.2, paragraphs 64-87)

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Observations: measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
A. Regional recommendations to Governments and authorities			
64. Act with due urgency and speed in the matter of enforced disappearances, as required by the Declaration on the Protection of All Persons from Enforced Disappearance and other international obligations.	See paragraph 7 of the report.	Government There are no such a cases in Montenegro. Red Cross of Montenegro Red Cross of Montenegro when obtained information relevant to missing persons immediately informs Montenegrin Commission for missing persons in order to ensure international or regional response or contacts directly competent foreign agency but always informing Commission on undertaken activities.	The WGEID recalls that concrete results on the issue of missing persons in the region can only be achieved through sincere and transparent cooperation among all concerned stakeholders and depoliticization of the matter.
65. Disclose all information on mass graves and make that information accessible to all countries and authorities in the region.	See paragraphs 7 and 13 of the report.	Government See answer no. 64. Red Cross Through regular activities related to visits and work with families of missing persons, Red Cross of Montenegro, registers in its documents unofficial information received from family members on possible grave sites and in collaboration with Commission for missing persons forwards this information to members of the commission. The investigation of these information is very difficult because the resources aren't always reliable.	See previous observation
66. Ensure high-level commitment to clarifying the fate and whereabouts of all missing persons, bringing all perpetrators to justice and ensuring full reparation for all victims.	See paragraphs 8 to 10 of the report.	Government See answer no. 82. Red Cross of Montenegro Red Cross of Montenegro has always been dedicated to this topic, having in mind that ICRC and Red Cross of	The Working Group welcomes the efforts made by the Government and encourages the authorities to maintain the support of these activities.

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		Montenegro created the list of missing persons used by Commission. However, when it comes to bringing to justice perpetrators, Red Cross cannot be involved due to its humanitarian mandate. Nevertheless, Red Cross greets all activities that can give information on whereabouts of missing persons.	
67. Reinvigorate efforts to establish a common regional list of the disappeared.	See paragraph 10 and 22 of the report.	Government See answer no. 82. Red Cross of Montenegro Red Cross has been informed on creation of regional list of disappeared. However, it hasn't been involved in the process of creation. ICMP The initiative to launch a Regional Database of Open Missing Persons Cases from the Armed Conflicts in the former Yugoslavia began several years ago under the aegis of ICMP with the aim of enhancing regional cooperation among countries of the Western Balkans through the transparent sharing of data on active missing persons cases. In April 2017, ICMP received a letter from the Montenegrin Commission on Missing Persons stating that it will participate in the Regional Database project. By the end of November 2017 all participating countries (BIH, Croatia, Kosovo, Montenegro and Serbia) had provided their data on active missing persons cases to ICMP for inclusion in the Database. In December 2017 ICMP convened a regional meeting to present the Regional Database.	The Working Group welcomes the creation of the Regional Database of "Active Missing-Persons Cases from the Armed Conflicts in the Former Yugoslavia" with the support of the ICMP and the participation and support of Croatia, Montenegro, Serbia and Kosovo. The WGEID encourages the authorities to continue collaborating with this project in order to establish a common regional list of the disappeared and looks forward to receiving more information on its implementation and the forthcoming results in the identification of victims and clarification of cases.

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		The meeting brought together the Board of Directors of the Missing Persons Institute of Bosnia and Herzegovina, chairpersons of the commissions on missing persons from Kosovo, Montenegro, and Serbia, and the Assistant Minister in charge of the Directorate for Detainees and Missing Persons of Croatia. ICMP's regional partners in the Western Balkans expressed high praise for the Database and concluded that it will be an invaluable tool in their future work. Representatives of the national authorities responsible for accounting for missing persons also expressed their strong determination to work together with the aim of refining and filtering the data presently held in the Database, with the aim of establishing an authoritative and publicly-accessible list of active cases of missing persons from the region. To achieve this, representatives of the national authorities will engage in intensive bilateral and multilateral talks to remove duplicates and to work on resolving cases of joint interest in 2018-2019. While transparency tools have facilitated the sharing of ICMP's data and DNA results with multiple partners simultaneously in affected countries of the Western Balkans, until now there has been no mechanism by which countries could share their own data with others in a transparent manner and receive updates in real time. The decision by BIH, Croatia, Kosovo, Montenegro and Serbia to participate in the Database project is a major step forward in terms of strengthening regional cooperation to account for around 12,000 people who are still missing from the region. The Database contains, at a minimum, the missing person's first name, father's name, last name, date of birth, place of birth, date of disappearance, place of disappearance,	

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		municipality of disappearance, identification (if any, date), and countries in which the disappearance has been registered. ICMP ensures that the data is accessible and searchable by the competent authorities in Croatia, BIH, Kosovo, Montenegro and Serbia on the basis that these authorities reciprocally provide their data relevant to active missing persons cases for inclusion in the Database. In this way, the Database will enhance regional cooperation with a view to resolving missing persons cases from the conflicts in the former Yugoslavia. Other In December 2017 in Belgrade, the International Committee on the Missing Persons (ICMP) has presented the regional database of the missing persons. In March 2018, the representatives from the Committee of the Missing persons of Montenegro have participated in the education on using the databases which was organised in Tuzla (B&H).	
68. Speed up the process of tracing missing persons through strengthened cooperation with institutions engaged in tracing disappeared persons in neighbouring countries, especially between prosecutors and judicial institutions. Such cooperation must include the exchange of relevant evidence.	See paragraphs 7 to 11 of the report.	Government See answer no. 82. Red Cross of Montenegro As a part of Red Cross/Red Crescent Movement, Red Cross of Montenegro has always collaborated with national societies of Red Cross in region, but also with ICRC as global led organization when it comes to registration of missing persons, ICMP offices and also EULEX office in Kosovo. ICRC organizes annual meetings with regional national societies in order to discuss all activities related to file of persons disappeared in conflicts on territory of ex-Yugoslavia, which represents specific file in all national	The Working Group welcomes the efforts made by the Government and encourages the authorities to maintain the support of these activities.

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		societies of Red Cross. Other Regional cooperation strengthened through the creation of the Database and signed Protocols on cooperation among the regional authorities responsible for missing persons	
69. Everyone involved must support the search for missing persons by providing relevant information and documentation at the national and regional level.	See paragraphs 9 to 11 of the report.	Government See answer no. 68. Red Cross of Montenegro As previously mentioned, Red Cross shares all relevant information with the Montenegrin Commission for missing persons, and also collaborate with all relevant and competent organization and agencies in order to ensure fast and reliable exchange of information.	
70. Continue the regional dialogue on missing persons and initiatives aimed at finding solutions to properly solve the issue.	See paragraph 14 of the report.	See answer no. 82. Red Cross of Montenegro As a member of the Commission, Red Cross of Montenegro actively participates in all negotiations and initiatives. Other See Recommendations 67, 68, 82, 85.	
71. Implement fully the Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses, signed by Bosnia and Herzegovina, Croatia, Montenegro and Serbia.	See paragraph 14 of the report.	Government Montenegro is committed to implementation of the Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed conflict and Human Rights Abuses, as activities presented in the responses to recommendations 74-81 show. ICMP	The Working Group recognizes the efforts of the Government to implement the Declaration. It is important that State authorities continue working towards the achievement of truth and justice for the victims.

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		On 29 August 2014 at a historic event hosted by ICMP, Chair of the Presidency of Bosnia and Herzegovina Bakir Izetbegović, President of the Republic of Croatia Ivo Josipović, President of Montenegro Filip Vujanović, and President of the Republic of Serbia Tomislav Nikolić signed the Declaration in Mostar, BIH. The purpose of the Declaration is to define the best practice principles to help guide States in accounting for the missing from conflict and human rights abuses. The first signatories include those countries and their successor states that were party to the Dayton Peace Agreement. Of the 40,000 persons missing from the armed conflicts of the 1990s in the former Yugoslavia, more than 70 percent have been accounted for. This is unprecedented in any post-conflict context anywhere in the world. By signing the declaration, BIH, Croatia, Montenegro and Serbia demonstrated the growing ability of States to assume ownership of the process of accounting for large numbers of missing persons, through their domestic institutions and through specialized international organizations, such as ICMP. The Declaration highlights the primary responsibility of State authorities in addressing the issue of the missing and the need to ensure that mechanisms and methods employed conform to human rights standards and the rule of law. In addition, the Declaration seeks to ensure that the rights of family members of the missing are upheld at all times, and that survivors and society as a whole have access to information regarding the fate of the missing and that proper investigations are undertaken in the pursuit of truth and justice. The Declaration seeks to ensure that past wrongs are addressed through accountable and just State institutions. The Declaration is being implemented fully by signatory states. All signatory states have demonstrated the primary	

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		responsibility of the state in the process of accounting for the missing (Article 1). All signatory states continue to uphold the rights of survivors to know the fate of their missing relatives, by conducting effective investigations into missing-persons cases (Article 2). All signatory states have built effective domestic institutions, i.e. government commissions on missing persons (Article 3). All signatory states are cooperating regionally and internationally for the purpose of elucidating the fate of the missing (Article 4). All signatory states are implementing measures that conform to the requirements of human rights obligations and the rule of law, including those of the criminal justice system (Article 5). All signatory states, through effective investigations, are addressing the need to establish the circumstances surrounding disappearances and the issue of impunity (Article 6). All signatory states have established dedicated war crimes prosecutor's offices, thereby emphasizing the role of the judiciary (Article 7).	
72. Offer more in-service training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international instruments.		Government See answer no. 78. Other See Recommendation 77.	The WGEID regrets that training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international instruments on human rights and humanitarian law is not offered. See also observation related to recommendation 78.
73. Immediately open archives that are relevant to cases of enforced disappearances in order to facilitate the localization of undiscovered gravesites and speed up the search for missing persons.	See paragraph 11 of the report.	Government See answers no. 64 and 65.	More efforts should be done in this regard.

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
B. Recommendations to Montenegro 74. Establish enforced disappearance as a separate offence in accordance with the definition contained in the Declaration on the Protection of All Persons from Enforced Disappearance. The offence of enforced disappearance should be punishable by appropriate penalties that take into account its extreme seriousness.	See paragraph 12, 25, 27, 26 and 28 of the report.	Government By ratification of the International Convention for the Protection of All Persons from Enforced Disappearances in 2011, Montenegro has confirmed that the widespread or systematic commission of enforced disappearances constitutes a crime against humanity under applicable international law and entails consequences provided for in accordance with applicable international law. Although Montenegro does not prescribe enforced disappearance as a special criminal offense, it is incorporated in criminal offenses: Unlawful deprivation of liberty under Article 162; Abduction from Article 164, Crime against humanity under Article 427 and War crime against civilian population under Article 428 of the Criminal Code of Montenegro. When it comes to the criminal offense of Unlawful Deprivation of Liberty (Article 162), the protective object of this criminal offense is the freedom of person and the right to freedom of movement, and the act is set as a detention, holding as closed, or unlawful deprivation or restraint of freedom of movement in another way. The qualified form of a criminal offense exists if it is committed by an official by the abuse of his position or authority. The execution of the basic form of the criminal offense Abduction referred to Article 164 consists in the removal or retention of a person by the use of force, threat, deceit or in other way. This criminal offense contains elements of the criminal offense of unlawful deprivation of liberty, coercion and extortion. The enforced disappearance is also contained in the corpus of criminal offences against humanity and other goods protected by international law – Criminal offences crimes against humanity (Article 427) and War crimes against the	The Working Group appreciates the efforts of the Government to implement the International Convention. However, it reminds that enforced disappearance should be established as a separate offence in the criminal legislation in accordance with the Declaration and the Convention, to which Montenegro is a party. It also recalls that the offence should be treated as continuous in nature and be punishable by appropriate penalties that take into account its extreme seriousness, as also recommended by the Committee on enforced disappearance upon consideration of the report of Montenegro under the Convention (CED/C/MNE/CO/1, paras. 8-11).

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		civilian population (Article 428). One of the acts of committing the criminal offense of Crimes against humanity referred to in Article 427 is "detention or abduction of persons without disclosing information on it so as to deprive them of legal protection", while one of the acts of committing the criminal offense of War crimes against civil population referred to in Article 428 is "unlawful deprivation of liberty and imprisonment." Changes and amendments to the Criminal Code in July 2013 introduced a Special circumstance for determining the sentence for a criminal offense committed by hatred, in such a way, that if a criminal offense was committed by hatred due to race, religion, national or ethnic origin, gender, sexual orientation or the gender identity of another person, the court shall consider that circumstance as aggravating, unless it is prescribed as a characteristic of a basic or qualified form of criminal offense.	
75. Ensure efficient prosecution of war crimes in line with international standards. The authorities of Montenegro should ensure that war crime cases are processed in an independent, impartial, efficient and professional manner that complies fully with international human rights law and international humanitarian law.	See paragraphs 42-48 of the report.	Government In May 2015, the Supreme State Prosecutor brought a Strategy for Investigating War Crimes with the aim of strengthening the struggle against impunity of war crimes and elimination of the weaknesses so far noted in this area, ie the strengthening of the fight against the impunity of war crimes, by more efficient investigation, prosecution, trial and punishment in accordance with international standards. Since October 2017, criminal proceeding in which one person is charged with the criminal offense of War Crimes against civil population is in progress before the High Court in Podgorica. In one case formed upon criminal charge filed against NN persons for criminal offence of war crimes against civilian population, after the collected data and evidence, it was	The WGEID notes that in 2015 the Supreme State Prosecutor adopted a Strategy for Investigating War Crimes with the aim of improving efforts to address impunity for war crimes. However, little progress has been achieved in terms of investigation and prosecution of war crimes, both for pending and new cases. The information received about a restrictive interpretation of the law, which has led to acquittal in some cases and lenient conviction to low cadres only in other, is of particular concern. The Working Group calls on the prosecutorial authorities to be more proactive and encourages the Government to support efforts to fight impunity for war crimes, including enforced

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		assessed that there is no reasonable suspicion that on the occasion of the event that has been reported, the criminal offense of War crimes against the civilian population was committed, or other criminal offense for which prosecution is undertaken ex officio. Six cases are in the pre-trial investigation phase-In the section „Other“, in relation to the implementation of the Strategy for Investigating War Crimes which The Supreme State Prosecutor brought in May 2015., it is stated that „...there is no evidence that the Special Prosecutors Office has ever reviewed potential for new prosecutions of the same cases and there are certainly no results of it.“. In relation to that, we are pointing out that the Special State Prosecution Office continuously works in all the cases formed because of these criminal offences. In the procedure of reconsideration of earlier cases which are solved final, in all the cases information and data were collected through the mechanisms of International legal assistance from the Office of the International Criminal Tribunal for the former Yugoslavia, upon the rogatory letters of the Special State Prosecution Office seeking to perform the search of the protected database in order to collect evidence referring to these cases. Furthermore, Special prosecutor and associate who work on the cases of war crimes, stayed in Hague Tribunal where they performed the search of the available database of the Tribunal, for the purpose of finding and collecting evidence for the cases that are formed in the Special State Prosecution Office and are in preliminary investigation phase, as well as for collecting and finding evidence for potentially new cases of war crimes in which perpetrators of those criminal offences are citizens of Montenegro. Other In October 2015 the Supreme Court of Montenegro rejected	disappearances, as also recommended by the Committee on enforced disappearances (CED/C/MNE/CO/1, paras. 16-17).

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		the request for the protection of legality filed by the Supreme State Prosecutor in relation to the criminal judgment finally acquitting all nine indicted persons for the war crime against civilian population in the Deportation of refugees' case. In 2018 the European Court of Human Rights communicated the case filed by a group of spouses, sisters and daughters of late victims of the crime of deportation of refugees to the Government of Montenegro due to ineffective investigation of this war crime and violation of articles 2 and 3 of the ECHR. The Court accepted the Government's request for extension of deadline to respond and it was now set for 2 July 2018. Under the pressure from the European Commission, CAT and WGEID, inter alia, the Supreme State Prosecutor Ivica Stankovic adopted in May 2015 the Strategy for Investigation of War Crimes, outlining the steps that should promote proactive investigations. The Strategy also stated that the prosecutors will revisit old crimes where the prosecution failed to secure convictions. However, there is no evidence that the Special Prosecutors Office has ever reviewed potential for new prosecutions of the same cases and there are certainly no results of it. According to the report of the Special Prosecutor from April 2018, all 6 criminal complaints related to war crimes were rejected. The only case "alive" is the one originating from Kosovo and Serbia against Montenegrin national Vlado Zmajevic for crimes he committed in Kosovo against civilian population. This case, however, was fully investigated and prepared in Serbia and was only delivered to Montenegro for prosecution, which is on its way before the High Court in Podgorica. The Supreme Court of Montenegro, by rejecting the ultimate appeal in the deportation war crime case, finally confirmed	

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		that the accused members of Montenegrin police and state security may not be found responsible for the war crime of deportation of refugees to Bosnian Serbs (Ratko Mladic and Radovan Karadzic) in Bosnia and Herzegovina in 1992 because Montenegro was officially not part of that armed conflict. Such a stand is an enormous blow to the face of justice and international humanitarian law and it should not be forgotten. Furthermore, the EU expert Maurizio Salustro has also criticised the wrong interpretation of law in the Bukovica case, also leading to acquittal of all indicted. Due to very restrictive interpretation of the law, only 4 persons were found guilty in the Morinj case and only the low level executors of ill-treatment of detainees in the army camp in Morinj. No charges were ever brought against persons who were in charge of the camp, in spite of existing legal grounds for that. The victims' lawyer who again filed a criminal complaint in the Kaludjerski las case never received a reply from the Special state prosecutor.	
76. Adopt all the measures necessary to combat impunity for violations of human rights.	See paragraphs 43-44 and 48 of the report.	Government See answers no. 74, 75 and 77-86. Other In relation to investigation of torture, NGO Human Rights Action proposed drafting a manual on all steps that should be taken in an effective investigation.	See previous observations.
77. Ensure that the judiciary, in particularly the higher courts, including the Constitutional Court and Supreme Court of Montenegro, take into account the jurisprudence established by the International Tribunal for the Former Yugoslavia and other international tribunals in relation to war crime prosecution	See paragraph 45 of the report.	Government During the prosecution of war crimes cases, the courts took into consideration the case law established by the ICTY and other international courts in relation to the prosecution of war crimes and respected the relevant standards established by international law and the Declaration on the Protection of All Persons from Enforced Disappearance. The constitutional complaint as a means of protection of	The Working Group notes that little progress has been achieved in this regard and reiterates the recommendation made following the visit.

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and respect relevant standards established by international law and the Declaration on the Protection of All Persons from Enforced Disappearance.		human rights and freedoms was introduced into our legal system by the Constitution of 2007. As the cases that are the subject of the Report of the Working Group on Forced or Involuntary Disappearances mainly relate to the period of armed conflicts in the territory of Yugoslavia 1990, 1991 ... known as cases Morinj, deportation of refugees, Kaluderski Laz, Bukovica, Štrpci, the Constitutional Court dealt with these cases from the aspect of compensation, ie compensation for non-pecuniary damage. Namely, in several cases in the proceeding of constitutional complaints, the Constitutional Court of Montenegro assessed the merits of the violations referred to in Art. 8 and 32 of the Constitution of Montenegro and Art. 6 and 14 of the European Convention, which were referred to by the applicants for constitutional complaints, and were concerning the amount of the adjudicated non-pecuniary damages claimed from the State of Montenegro for the suffering of mental pain caused by the violation of the rights of personality, torture, inhuman and degrading treatment, while being in war imprisonment after forced removal. In all cases, the applicants indicated that the amount of compensation adjudicated was arbitrary and did not represent a realistic satisfaction. After the Constitutional Court proceedure, in all cases, the Constitutional Court assessed that the application of the appropriate substantive law to the determined factual situation and the reasoning of the legal position taken by regular courts constitutes a constitutionally justified ground for the adoption of the impugned judgments, that the responsibility of the State of Montenegro was determined and damages adjudicated in all cases, that the applicants were granted the right to a fair trial, therefore made rulings to reject constitutional complaints. In all its decisions the Constitutional Court of Montenegro	

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		respects the relevant standards established by international law in accordance with the provisions of Article 9 of the Constitution of Montenegro. Other According to our contacts in the NGO sector – the EU, together with other international organisations and US government invested substantially into trainings and seminars and disappointing judgements have still been passed. Unfortunately, trying war crimes primarily depends on political - judicial will to act impartially and not on knowledge of law. The war crimes trials unfortunately testify of limited ability of Montenegrin judiciary to provide for the rule of law in that sense.	
78. Provide systematic training in international criminal law and international humanitarian law for Montenegrin prosecutors and judges.	See paragraph 48 of the report.	Government In the period from 2014 to 2018, the Centre for Training in Judiciary and State Prosecution (former Judicial Training Center) organized five seminars/ workshops for representatives of the State prosecution office, courts, Police Administration and state administration. Seminar/ Workshop themes included international best practices and regional cooperation in investigations, prosecutions and war crimes trials, providing expert assistance in developing a strategy for opening new war crimes investigations, new trends in the investigation and prosecution of war crimes, training on the application of Montenegrin Strategy for Investigating War Crimes, implementation of international and domestic regulations in the field of war crimes. Also, on May 15-20, 2016, the Center organized a Study Visit to Bosnia and Herzegovina and the Netherlands on the topic "War Crimes". Participants in the study visit were judges and state prosecutors. At the beginning of June 2018, in cooperation with the U.S. Embassy in Podgorica, State Department Bureau for fight against international drug	Training for prosecutors and judges should be organized and implemented in more consistent manner. See also observation made in relation to recommendation 72.

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		trafficking and law enforcement (INL) – Resident Legal Advisor Program, organised two-day training: Conference on war crimes. Red Cross of Montenegro Red Cross of Montenegro as a member of RCRC Movement receives regular training in IHL as a part of collaboration with ICRC. However, it is noticed that stakeholders haven't been educated sufficient on IHL and missing person's issues and that they need capacity building on this topic. As one of future activities, Red Cross of Montenegro has taken in consideration the possibility to organize the trainings and workshops for state institutions on IHL and issues of missing in collaboration with ICRC. Other As above *(recommendation 77).*	
79. Ensure that all victims of war crimes are provided with effective access to justice and adequate reparation. In this respect, the status of families of missing persons should be recognized by law and their rights should be guaranteed in a non-discriminatory manner.	See paragraph 49, 52 and 56 of the report.	Government All victims of enforced disappearance or their families in Montenegro are guaranteed with access to justice, compensation and reparation. Courts apply the provisions of the Law on Obligations and the Law on Civil Procedure in cases in which victims of enforced disappearance have filed lawsuit for compensation of pecuniary and/ or non-pecuniary damage. All cases of compensation for victims of war crimes before the Montenegrin courts have been finally decided. In total, 5,714,656.20 EUR of compensation was adjudicated. Five lawsuits were rejected, four procedures were suspended, while in 20 cases the lawsuit was withdrawn. Other We are unaware of the fact that the status of families of	The WGEID notes the information that all cases of compensation for victims of war crimes before the Montenegrin courts have been resolved and that, in total, 5,714,656.20 euros of compensation was granted. However, the WGEID would appreciate receiving more detailed information on how many of these cases concerned victims of enforced disappearances and the number of lawsuits where perpetrators were identified and sentenced in parallel criminal proceedings.

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		missing persons is anyhow particularly recognised.	
80. Establish an effective public system of free legal aid to allow relatives of missing persons to obtain legal assistance if they cannot afford it.		Government Relatives of missing persons are provided with the right to free legal aid, pursuant to the Law of Art. 12 of the Law on Free Legal Aid, which can be entitled by: 1) a Montenegrin citizen; 2) a stateless person who legally resides in Montenegro and a person seeking asylum in Montenegro; 3) a foreigner with permanent residence or permanent stay, or approved temporary stay and other person that legally resides in Montenegro; 4) another person in accordance with the ratified and published international agreement. The person referred to in Article 12 of this Law shall have the right to free legal aid if he/she is: 1) the beneficiary of material security of the family in accordance with the law governing social and child protection; 2) a child without parental care; 3) a person with disabilities; 4) victim of the criminal offense of domestic violence or family and human trafficking, as well as the victim of domestic violence in accordance with the law regulating the protection against domestic violence; 5) a person with a poor financial standing. Furthermore, pursuant to Art. 59 when the court in Montenegro is competent for a dispute with an element of foreign in which the applicant is a citizen or a person legally residing in a Member State of the European Union, with the	The WGEID recommends that a category of a *relative of missing person* is included in Article 12 of the Law on Free Legal Aid.

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		exception of the Kingdom of Denmark (domestic dispute with an element of foreign), the applicant has the right to free legal aid in accordance with this Law. If the applicant referred to in paragraph 1 of this Article presents credible evidence that, due to the difference in living expenses between the state of his citizenship and Montenegro, cannot cover the costs of legal aid without damaging the necessary support of himself/herself and his/her family, free legal aid can be granted. In all courts, departments referring to free legal aid have been formed. Other Families of missing persons are not particularly recognised as beneficiaries by the law on free legal aid.	
81. Set up a programme of comprehensive reparation that includes not only compensation but also restitution, rehabilitation, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition. A gender-sensitive approach should be taken when designing and implementing reparation programmes.	See paragraph 57 of the report.	Government See the answer no. 79. Red Cross of Montenegro Red Cross of Montenegro has initiated dialogue with relevant Ministry to create psycho-social program of support to families of missing. When it comes to other activities such as restitution, rehabilitation, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition, it is not applicable to Red Cross of Montenegro. Other Apart from one single monument "for all civilian victims of wars on the territories of the former Yugoslavia" no particular memorials were erected by the government for all other victims, especially for those who suffered as consequence of illegal acts of Montenegrin officials - as	The Working Group notes the Government's efforts to meet this recommendation but wishes to emphasize the need for more to be done in this regard, in light of the fact that only economic compensation has been paid. See also observation to recommendation n° 79.

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		deported refugees, Bukovica or Morinj etc. According to our counterparts in the NGO sector (Human Rights Action – HRA), additional pressure for memorials on behalf of international community would be most welcome.	
82. Continue regional dialogues and contribute to a joint regional effort to establish the fate and whereabouts of missing persons.	See paragraphs 21-22 of the report.	Government The President of the Commission for Missing Persons of Montenegro participated in the regional meeting of the International Commission on Missing Persons (ICMP) on December 7, 2017 in Belgrade, where the Database of Active Cases of Missing Persons Due to Conflict in the Former Yugoslavia was presented. The established database was praised as of high quality and it was concluded that it will represent a valuable asset in the future work of the relevant bodies dealing with the issue of missing. Beside cooperation with the relevant authorities for missing persons from Serbia, Bosnia and Herzegovina, Croatia and Kosovo, the International Commission on Missing Persons and the International Committee of the Red Cross, the Commission for Missing Persons of the Government of Montenegro is intensively cooperating with the Regional Coordination of the Association of Families of Missing Persons from the territory of the former Yugoslavia and other associations dealing with this issue. Commission for Missing Persons of the Government of Montenegro and the Special State Prosecutor's Office of Montenegro – Section for War Crimes, are participating in the project "Strengthening Regional Cooperation in War Crimes Processing and Searching for Missing Persons" (2017 - 2019), which will be implemented by UNDP in the next three years and which aims to increase the efficiency and effectiveness of cooperation between the prosecutor's offices of the countries of the former Yugoslavia in the prosecution of war crimes, as well as to further strengthen	The Working Group welcomes the efforts made by the Government and encourages the authorities to maintain the support of these activities.

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		the capacities for the search for missing persons during armed conflicts. On this occasion, on other regional consultations and strengthening of regional cooperation in the processing of war crimes and searches for missing persons on April 10, 2017 in Montenegro, Supreme State Prosecutor of Montenegro said that the number of missing persons "is not a digit for us, but every single destiny and because of that it is necessary to make an effort in order to ensure their identification as soon as it is possible". On January 26, 2018, the third regional consultations on strengthening regional cooperation in the processing of war crimes and searches for missing persons were held in Sarajevo. The meeting is part of the UNDP regional project "Strengthening Regional Cooperation in War Crimes Processing and Searching for Missing Persons" (2017-2019). President and members of the Commission for Missing Persons of Montenegro participated at the meeting, who presented the report on work for the previous year, the plans for 2018, the work on harmonization of special procedures related to the process of exhumation, identification and repatriation of human remains, and reaching an agreement on procedures related to future cooperation and coordination of activities. It was agreed to organize more bilateral meetings in the forthcoming period between competent authorities for missing persons as well as to organize various trainings for members and employees in bodies dealing with missing persons issues. In addition, the President of Montenegro has appointed a personal envoy to the Regional Expert Group for consideration of the Draft Statute of the Regional Commission for the Establishment of Facts on War Crimes and Other Serious Human Rights Violations Committed in the Territory of the former SFRY from 1 January 1991 to 31 December 2001 - REKOM. In addition to the above, the Commission on Missing	

Recommendations *(A HRC 30 38 Add.2)*	*Situation during the visit* *(A HRC 30 38 Add.2)*	*Observations: measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		Persons of Montenegro has had several bilateral meetings with the Commission from Serbia, Bosnia and Herzegovina, Croatia and Kosovo in the previous period in order to intensify cooperation in solving the problem of missing persons in armed conflicts in the territory of the former SFRY through the exchange of available data and information and alignment of records of relevance to the resolution of cases of missing persons. Red Cross of Montenegro Beside collaboration with international organizations, ICRC organizes annual meetings with regional national societies in order to discuss all activities related to file of persons disappeared in conflicts on territory of ex-Yugoslavia, which represents specific file in all national societies of Red Cross. Other The Government of Montenegro has concluded a protocol on cooperation with the Commission for the missing persons of the Government of Serbia; Government's Commission for the missing persons of Kosovo and the Committee of the Republic of Croatia for imprisoned and missing persons. Negotiations on concluding an agreement on the matter with Bosnia and Herzegovina will start in Podgorica on 21 and 22 June 2018.	
83. Increase transparency by ensuring that the government authorities and the judiciary disclose information of public interest on their web pages in accordance with article 12 of the Law on Free Access to Information. The authorities of Montenegro should continue activities aimed at	See paragraphs 38-41 of the report.	Government The Ministry of Labor and Social Welfare publishes on its website all information on the work of the Commission on Missing Persons. In addition, all relevant information on the work of the Commission on Missing Persons are published on the website of the Government of Montenegro. On the portal www.sudovi.me courts announce the scheduling of all trials, final judgments brought and data on	The Working Groups welcomes the steps taken by the Government to ensure transparency and access to information in relation with missing persons.

Recommendations (A/HRC/30/38/Add.2)	Situation during the visit (A/HRC/30/38/Add.2)	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
ensuring free access to information.		cases of compensation for war crimes victims. The Prosecution regularly publishes relevant information from its jurisdiction at http://www.tuzilastvocg.me. Other The Ministry of Work and Social Care has a part of its web site dedicated to the Commission for the Missing persons - http://www.mrs.gov.me/informacije/komisija/ . The list of missing persons is available and the changes are regularly updated. The web site also continues all of the recent events, news and regulations concerning the work of the Commission.	
84. Include a representative from the Prosecutor's Office in the Commission on Missing Persons. The Commission should hold meetings more frequently and work in a more proactive manner in order to contribute actively to the search for missing persons.	See paragraphs 32-36 of the report.	Government Representative of the Prosecution Office is included in the Commission on Missing Persons since 11 January 2016, when it was appointed by the Governments written Decision. The Commission on Missing Persons holds regular meetings in accordance with the recommendations, in order to contribute to the updating of data, information and alignment of records of relevance to the resolution of the fate of missing persons. Other Representative from the Prosecutor's Office not included.	The WGEID notes with satisfaction the information received from the Government that the Prosecution Office has been included in the Commission on Missing Persons since 11 January 2016.
85. The Commission on Missing Persons should sign protocols of cooperation with its counterparts in Bosnia and Herzegovina, Croatia and Kosovo.	See paragraph 36 of the report.	Government Protocols on cooperation with the Commission on Missing Persons of the Republic of Kosovo (October 22, 2015) and the Committee of the Government of the Republic of Croatia for the detainees and disappeared (December 22,	The Working Groups congratulates the Government for increasing the cooperation with its neighbours.

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Observations: measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		2017) are signed. An initiative to sign a protocol on cooperation with the competent commission from Bosnia and Herzegovina is launched, and negotiations to harmonize the text of the protocol and further future cooperation are in progress. Other Protocols with Croatia and Kosovo were signed while negotiations over the protocols with Bosnia and Herzegovina will start in Podgorica on 21 and 22 June 2018.	
86. Ensure the integrity and independence of the Protector of Human Rights and Freedoms as a national human rights institution that complies fully with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Office of the Protector should be provided with sufficient resources. The Working Group recalls that the election of an ombudsperson should be carried out in accordance with the Paris Principles.	See paragraphs 59-60 of the report.	Government Amendments to the Law on the Protector of Human Rights and Freedoms from 2014 established and specified the Protector's competences, especially as NPM. It provided a more transparent procedure for its appointment by the President of Montenegro after consultations with civil society organizations and the academic community. The provision of the Constitution of Montenegro remain in force, according to which the appointment of the Protector is carried out by the majority of the total number of members of the Parliament of Montenegro. The Protector's competence in the field of promotion of human rights and acting in providing protection is additionally expanded. By filling new staff in all areas of protection (four basic organizational units and administrative services), the capacities of this institution are strengthened so the Protector fulfills its mandate in total (34 employees with the Protector, two female deputies and two male deputies). Within the framework of a single budget, the Protector is provided with funds for the work of the NPM. Funds for the work in 2018 of the Special organizational unit - Third basic	The Working Group acknowledges the efforts to ensure the effective work of the Protector of Human Rights and Freedoms. However, it notes that the Protector should be elected by a qualified majority vote in the Parliament.

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		group of jobs - National preventive mechanism, protection against torture and the right to a trial within a reasonable time (5 employees and Deputy of Protector in this area), are allocated in the amount of about 135.00,00 €. All job positions in this organizational unit are filled. In the function of the NPM, is the working body of the NPM comprised of external experts from different fields. Work methodology and guidelines for acting are improved. The quality of visits is significantly improved and they are focused on specific topics progressively. The Institution of Protector is accredited by the International Committee of National Institutions for the Promotion and Protection of Human Rights in 2016 by the status of B. Other The Constitution was never amended to provide for election of the Ombudsman by qualified majority vote in the Parliament. Therefore, the actual Ombudsman has in fact been reelected by the Government.	
87. The Working Group invites the Government of Montenegro, within 90 days from the date of presentation of the present report to the Human Rights Council, to submit a timetable showing the steps it will take to implement the recommendations of the Working Group, the dates by which each measure will be taken and the dates by which it plans to finalize the implementation of the recommendations.		Government A timetable showing the steps that Montenegro will undertake to implement the recommendations of the Working Group is submitted in January/February 2016. Other No timetable was established to our knowledge. Under international pressure, in May 2015 the Strategy for Investigation of War Crimes, outlining the steps that should promote proactive investigations.	The Chair-Rapporteur of the WGEID publicly applauded Montenegro in her statement to the 33rd session of the Human Rights Council in September 2016 for having been the first – and so far the only – country which has provided the Working Group, outside the follow-up process, with specific information on the measures taken or to be taken to implement the recommendations contained in the country visit report.

V. Serbia

34. On 12 December 2017, the Working Group on Enforced or Involuntary Disappearances requested the Government of Serbia to provide information on measures taken to implement the recommendations that were made in the report A/HRC/30/38/Add.1 (paras. 86-118), after its visit to the country in June 2014. On 13 February 2018, the Government of Serbia provided the requested information. On 18 July 2018, the Working Group sent the below table for comments to the Government of Serbia, which provided additional information on 3 September 2018.

The Working Group:

35. Thanks the Government of Serbia for the cooperation throughout the process of the follow-up report.

36. Notes the contribution of the Belgrade delegation to the Working Group on Missing Persons, which have led to some, though limited, progress.

37. Welcomes the amendments to the Criminal Code made in 2016 to include enforced disappearance as a separate offence among the crimes against humanity listed in article 371. However, enforced disappearance is not yet conceived as an autonomous crime outside the context of a widespread and systematic attack against the civilian population. It reminds that enforced disappearance should be established as a separate offence in the criminal legislation in accordance with the Declaration and the Convention, to which Serbia is a party. It also recalls that the offence should be treated as continuous in nature and be punishable by appropriate penalties that take into account its extreme seriousness, as also recommended by the Committee on enforced disappearance upon consideration of the report of Serbia under the Convention (CED/C/SRB/CO/1, paras. 11-12).

38. Is concerned at the information that the bilateral cooperation with Croatia, while still formally in place and in progress, would have reached a stalemate as the Protocol is being revised. It reiterates that this cooperation be resumed as soon as possible for the best interests of the victims.

39. Reiterates the recommendations formulated at the end of the 2014 visit to adopt a strategy to address the issue of missing persons in a comprehensive manner as well as a law recognizing the status and rights of relatives of missing persons.

40. Notes that the Commission on Missing Persons of the Government of Serbia has acted quite promptly when it has received information on potential mass graves in the past.

41. Notes the additional funding allocated for an audio and video recording system for courtrooms of the Special Department of the Higher Court of Belgrade and the appointment of new judges, a new prosecutor and a new prosecutorial strategy. It notes, however, that war crimes proceedings continue to be rather slow with few convictions and shares the recommendations formulated by the Committee on Enforced Disappearances to the Serbian Government in 2015 to ensure that all cases of enforced disappearance that may have been committed by agents of the State or by persons or groups of persons acting with their authorization, support or acquiescence in the context of past armed conflicts are investigated thoroughly and impartially without delay (see CED/C/SRB/CO/1, para. 14).

42. Reiterates the recommendation formulated after the visit to establish an agreement on war crime cases with the authorities of Kosovo in order to establish an operational protocol on cooperation in the investigation and prosecution of war crimes and regrets that cooperation with the Kosovo authorities on war crimes cases is currently non-existent.

43. Notes the "Law on the Protection Programme for Participants in Criminal Proceedings" and appreciates the detailed reply provided by the Government on the available protection programme and measures. It is concerned though that such measures are limited, and that no systematic and comprehensive assistance exists. Furthermore,

protection of victims and witnesses in war crimes trials appears to be confined to a limited time during testimony rather than being provided throughout the proceedings.

44. Notes the National Strategy for the Prosecution of War Crimes as well as the fact that this Strategy sets "a raised level of awareness and an improved public attitude toward the need for war crimes trials" as one of its priorities. However, in practice, there seems to be little awareness among the general public nor specific activities aimed at raising it, also due to the unconducive political climate.

45. With respect to vetting, while there are bylaws adopted in 2016 that would allow avoiding the recruitment in public services of individuals involved in the armed conflict, in practice cases of individuals still holding public positions continue to be reported.

46. Hopes that the new "Gender Equality Law" to be adopted in the fourth quarter of 2018 ensure a gender-sensitive approach when designing and implementing reparation programmes, as also recommended by the Committee on Enforced Disappearances (CED/C/SRB/CO/1, para. 26 (a)), after the 2015 review of the Serbia report under the International Convention for the Protection of All Persons from Enforced Disappearance.

47. Notes the Analysis of the Level of Alignment of Serbia's Normative Framework with the EU Victims' Directive submitted to the Ministry of Justice in June 2016 and hopes that the outcome of this project would bring Serbia's legislation and practice vis-à-vis victims of enforced disappearances in line with its obligations under the Declaration and the Convention.

48. Acknowledges the development of a "Draft Law on Free Legal Aid" and looks forward to its adoption and effective implementation, including with regard to relatives of missing persons.

49. Welcomes that bylaws were passed and that a prior declaration of the person as dead is no longer required to obtain reparation. However, it remains concerned that reparation continues to be available only to victims of former enemy forces. In this respect, it also reiterates the recommendation formulated after the visit to ensure the equitable allocation of existing resources for the civilian victims of war in order to eradicate the discrimination between, inter alia, the budget for civilian and military victims of war.

50. Appreciates the information that the Commission on Missing Persons of the Government of Serbia regularly meets with representatives of families of missing persons, updates them on the progress and attends all commemorations of important dates, memorial services and conferences organised by associations.

51. Notes that a new law on access of information is in preparation and hopes that it will properly address the issue of access to archives and to information that could potentially lead to clarification in cases of missing persons.

52. Regrets that training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international instruments on human rights and humanitarian law is not offered.

53. Reiterates the recommendation formulated after the visit to pay equal attention to all victims, regardless of their nationality, in respect of memorials. This principle should be integrated into future activities related to this element of reparation.

54. Notes that the Action Plan on the Protection of National Minorities in the Republic of Serbia aims at preventing hate speech, including through the media and social networks. It regrets though that educational materials addressing recent history do not seem to aim at addressing ethnic polarization and promoting pluralism.

Follow up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its visit to Serbia in June 2014 (A/HRC/30/38/Add.1, paragraphs 86-118)

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
A. Regional recommendations to Governments and authorities 86. Act with due urgency and speed in the matter of enforced disappearances, as required by the Declaration on the Protection of All Persons from Enforced Disappearance and other international obligations.	See paragraph 8 of the report.	Government The Office for Missing Persons (OMP) acts urgently and swiftly in forced disappearance matters and, in accordance with its mandate, has undertaken a number of measures and activities at different levels to expedite the resolution of missing persons cases. As part of these activities, it has performed field checks, explorations, exhumations, reexhumations, re-associations, identifications and deliveries and acceptances of bodily remains. Furthermore, on the basis of signed international treaties, we have had a number of bilateral and multilateral meetings to agree on future cooperation mechanisms and concrete activities. We have signed a Protocol of Cooperation in the Search for Missing Persons with with Bosnia and Herzegovina and the Agreement on the Status and Functions of the ICMP, we had a bilateral meeting with Croatia on 2 and 03 June 2015 in Belgrade and working meetings were held in Belgrade on 6 March 2015 and 8 December 2016. Humanitarian Law Center The process of ascertaining the fate of missing persons moves slowly, partly because of the absence of a legal framework regulating the search for missing persons. The work of the Commission on Missing Persons of the Republic of Serbia is characterized by insufficient transparency and a reactive approach to its work. Families of missing persons who currently live in Serbia still do not have their legal status harmonised with the International Convention for the Protection of All Persons from Enforced Disappearance. On 20 February 2016, the Government of the Republic of Serbia adopted the National Strategy for the Prosecution of	The WGEID notes that in spite of some efforts and the commitment expressed at high level, progress is slow. The WGEID recalls that concrete results on the issue of missing persons in the region can only be achieved through sincere and transparent cooperation among all concerned stakeholders and a depoliticization of the matter.

Recommendations (A/HRC/30/38/Add.2)	Situation during the visit (A/HRC/30/38/Add.2)	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		War Crimes for the period 2016-2020 (hereinafter: National Strategy), which detailed the set of activities needed to improve the prosecution of war crimes in Serbia. Since the adoption of the National Strategy, the number of missing persons from the conflicts in the former Yugoslavia has been reduced, but the number of persons whose mortal remains have been found in that period has been nearly identical to the average number of persons found in the previous years. This suggests that, in that particular aspect, the National Strategy has not helped make the search process any more efficient. In view of the fact that more than one third of missing persons have not yet been found, even though twenty years have passed since the wars, it is safe to conclude that the current pace of resolving the fate of missing persons is not an adequate response to the humanitarian dimension of the problem. According to the International Committee of the Red Cross (ICRC), from August 2017, 10,390 persons are still missing from the armed conflict in Croatia, BiH and Kosovo (compared to 10.698 in May 2016 and 12,544 in November 2012). Bosnia-Hercegovina is still looking for 6,675 persons, and Croatia for 2,057 persons. In Kosovo, families are still searching for 1,658 persons. Other There is commitment at the high level, as well as pledges of regional cooperation, but implementation is lagging behind. The impetus mostly comes from international organisations (e.g. ICRC) rather than from the authorities.	
87. Disclose all information on mass graves and make that information accessible to all	See paragraphs 8, 15, 20, 33, 34, 35, 36 and	Government The OMP discloses and exchanges all available	See previous observation.

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
countries and authorities in the region.	40 of the report.	information on individual, communal and mass graves on the basis of the cooperation agreements and protocols signed with the bodies in charge of search for missing persons in the region. (On the basis of the information exchanged in 2015-2017, we have performed exhumations, post mortem examinations, identifications and deliveries and acceptances of bodily remains of 301 persons, including 281 persons in connection with the armed conflicts in the former Yugoslavia (Croatia and Bosnia and Herzegovina) and 20 persons in connection with the conflict in the Autonomous Province of Kosovo and Metohija. The OMP is actively involved in resolving matters of missing persons at the regional level and supports future development in this regard. From 2004 to date, the Working Group has had 45 sessions in total, inclucing two sessions held in 2017 – on 1 March 2017 in Belgrade and on 16 May 2017 in Pristina. From 2 September 2005 to the most recent session of the Working Group, the Belgrade delegation has delivered more than 2500 pieces of information and photographic and other documents from the archives of the Ministry of Interior and the Yugoslav Army through the Working Group Mechanism, including information on ground clearing, field photographs and drawings of graves that have been obtained and processed. On the basis of this information, we have exhumed, performed post mortem examinations and identified a number of persons of Albanian ethnicity. On the other hand, the Pristina delegation has not provided a single piece of information about potential burial sites or mass graves containing mortal remains of Serbs, although the two parties had agreed to exchange information and documentation. In the meeting held in Geneva on 30 June 2017, under the auspices of the Special Representative of the UN Secretary General in Kosovo and Metohija and the head of the UNMIK, all stakeholders in the process of resolving the	

Recommendations (A/HRC/30/38/Add.2)	Situation during the visit (A/HRC/30/38/Add.2)	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		issues of missing persons in Kosovo and Metohija (UNMIK, ICRC, the Pristina delegation and the Belgrade delegation) agreed to develop a framework strategy by the end of 2017 that would set clear priorities for the next two years. The Belgrade delegation was the only one to keep its word and prepare a strategu, which it presented on 21 December 2017 in the meeting of the Resource Centre in Pristina. Government: additional information With regards to allegations of the Humanitarian Law Centre that there is an obvious lack of strategic activities of the state on improvement of cooperation with EULEX and Provisional Institutions of Self-Government in Priština, we would like to point that the Republic of Serbia also expressed its readiness for cooperation in the previous period through inviting Ms. Alexandra Papadopoulou, Head of EULEX in AP Kosovo and Metohija, to establish the official contact with Belgrade, and those invitations have not been positively answered to by EULEX. Humanitarian Law Center The legal frame for cooperation in disclosing information between the states was based on several protocols and agreements starting from 2004, but, so far, it has not resulted in a significant number of mass graves being found. The last discovery of the existence of a mass grave occurred in December 2013 in Rudnica. It was the result of an exchange of information within the Working Group on Missing Persons. In the period 2014-2018 there have been no discoveries, exhumations or identifications of missing persons on the territory of Serbia. An investigation was carried out on the location of Kiževak near Raška, and was allegedly discontinued due to bad weather and lack of funds in December 2016. The HLC believes that the inefficiency in achieving any results in the five-years' period demonstrates that there is not	

Recommendations (A/HRC/30/38/Add.2)	Situation during the visit (A/HRC/30/38/Add.2)	Measures taken current situation	Level of implementation and observations (to be completed by the WGEID)
		enough exchange of information between the states. According to the opinion of representatives of the competent institutions in Croatia and Serbia, they both believe that the opposite side is concealing certain information about the locations of possible mass graves, or neglecting the process of identification. According to the international institutions, the cooperation of Serbia and Croatia in the search for missing persons is slow and needs stronger political commitment and resources. Particularly noticeable is the absence of strategic activities related to the improvement of cooperation with the European Union Rule of Law Mission in Kosovo (EULEX) and provisional institutions of self-government in Prishtina, or to the establishment of cooperation with the Kosovo Specialist Prosecutor's Office in The Hague. Failure to identify the problems that exist in cooperation is particularly worrying, since the last indictment for crimes in Kosovo was raised in 2014. Regional cooperation through exchange of information is partially being realised through the war crimes trials. Locating a mass grave in the Sotin Case was a result of mutual cooperation between the Office of the War Crimes Prosecutor (OWCP), the Commission on Missing Persons, and the Croatian authorities. However, this is the only case to date where criminal prosecution has led to locating the burial sites of missing persons. In all other cases completed or pending before the War Crimes Department, either the OWCP or the Court inquired into the whereabouts of bodies of victims that have not been located, instead of focusing on establishing that the accused were responsible for the killing. Other There is commitment at the high level, as well as pledges of regional cooperation, but implementation is lagging behind.	

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		The impetus mostly comes from international organisations (e.g. ICRC) rather than from the authorities. There is high-level commitment by all sides but deliverables are lingering.	
88. Ensure high-level commitment to clarifying the fate and whereabouts of all missing persons, bringing all perpetrators to justice and ensuring full reparation for all victims.	See paragraphs 9 and 11 of the report.	Humanitarian Law Center In consequence of the cross-border nature of the armed conflicts in the former Yugoslavia, victims, witnesses, perpetrators and evidence are for the most part not located within the territory of a single state and do not fall within the competence of a single national judiciary. Additionally, due to the fact that almost all former Yugoslavia successor states ban extradition of their citizens for trials in other countries, prosecution of war crimes committed on the territory of the former Yugoslavia is simply impossible without effective judicial cooperation among the countries in the region. The fact that 35 of the 60 cases that have been prosecuted by the Serbian judiciary since 2003 resulted from regional cooperation clearly indicates the importance of this form of cooperation. The Office of the War Crimes Prosecutor (OWCP)'s cooperation with its counterparts in the region in the investigation of war crimes is regulated by memoranda, agreements and protocols on cooperation in the investigation of war crimes, transfer of cases and exchange of evidence. The memoranda signed with Croatia and B&H have to some extent improved the cooperation between the OWCP and its Croatian and Bosnian counterparts, by providing for direct communication between them in the exchange of evidence, information and news, instead of communication through international legal assistance, as was the practice previously. Some of the problems encountered in practice were left unaddressed in the cooperation agreements. One of these	See observation related to recommendation 86.

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		issues is the competing jurisdictions of the prosecutor's offices in the region, which as a rule have undermined political relations between the states. The OWCP often came into collision with its counterparts in the region because of its "parallel investigations" (in the Tuzla Convoy, Dobrovoljačka Street and Naser Orić Cases). The National Strategy for the Prosecution of War Crimes stipulates the signing of agreements to improve the execution of letters of request for judicial assistance, facilitate gathering evidence located on the territory of another state in the region for defense lawyers, and achieve uniformity of actions by the states in the region in clarifying the fate of missing persons. At the time of this writing, Serbia had not signed any new intergovernmental agreement regulating these issues. Other There is commitment at the high level, as well as pledges of regional cooperation, but implementation is lagging behind. The impetus mostly comes from international organisations (e.g. ICRC) rather than from the authorities.	
89. Reinvigorate efforts to establish a common regional list of the disappeared.	See paragraphs 11 and 23 of the report.	Government Sustained efforts over many years to establish a regional list of missing persons have yielded results. Namely, a regional meeting was held in Belgrade on 7 December 2017 in which a working draft of a regional list of missing persons was presented, within the framework of the "Database of Active Missing-Persons Cases from the Armed Conflicts in the Former Yugoslavia", a project of the International Commission on Missing Persons. Project partners are representatives of all bodies in charge of missing persons searches in the region which accessed the Project under Bilateral Agreements with the ICMP (Montenegro, the Republic of Croatia, Bosnia and Herzegovina and the Republic of Serbia, including Kosovo), while the databases	The Working Group welcomes the creation of the Regional Database of "Active Missing-Persons Cases from the Armed Conflicts in the Former Yugoslavia" with the support of the ICMP and the participation and support of Croatia, Montenegro, Serbia and Kosovo. The WGEID encourages the authorities to continue collaborating with this project in order to establish a common regional list of the disappeared and looks forward to receiving more information on its implementation and the forthcoming results in the identification of victims and

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		include initial data on missing persons provided to this organisation. The parties agreed the Database would be a useful tool in the work of the competent bodiesa. It has been agreed that, once duplicated cases are resolved through joint efforts, new cases would be opened and the identified and resolved cases would be closed, and the Database would become publicly available by the end of 2018. Humanitarian Law Center At the beginning of November 2017, the Regional Coordination of Associations of the families of missing persons from the territory of ex-Yugoslavia held a meeting in Prishtina in which they stressed the importance of forming a centralised regional database on cases of missing persons or even a list of missing persons, but unfortunately such a list has not been created. There is only the joint list of Serbia and Kosovo compiled by the ICRC. The HLC considers that it is necessary to discuss the creation of a regional list of persons missing from the conflicts in former Yugoslavia. ICMP The initiative to launch a Regional Database of Open Missing Persons Cases from the Armed Conflicts in the former Yugoslavia began several years ago under the aegis of ICMP with the aim of enhancing regional cooperation among countries of the Western Balkans through the transparent sharing of data on active missing persons cases. In November 2017, ICMP received a letter from the Serbian Commission on Missing Persons stating that it would participate in the Regional Database project. By the end of November 2017 all participating countries (BIH, Croatia, Kosovo, Montenegro and Serbia) had	**clarification of cases.**

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		provided their data on active missing persons cases to ICMP for inclusion in the Database. In December 2017 ICMP convened a regional meeting to present the Regional Database. The meeting brought together the Board of Directors of the Missing Persons Institute of Bosnia and Herzegovina, chairpersons of the commissions on missing persons from Kosovo, Montenegro, and Serbia, and the Assistant Minister in charge of the Directorate for Detainees and Missing Persons of Croatia. ICMP's regional partners in the Western Balkans expressed high praise for the Database and concluded that it will be an invaluable tool in their future work. Representatives of the national authorities responsible for accounting for missing persons also expressed their strong determination to work together with the aim of refining and filtering the data presently held in the Database, with the aim of establishing an authoritative and publicly-accessible list of active cases of missing persons from the region. To achieve this, representatives of the national authorities will engage in intensive bilateral and multilateral talks to remove duplicates and to work on resolving cases of joint interest in 2018-2019. While transparency tools have facilitated the sharing of ICMP's data and DNA results with multiple partners simultaneously in affected countries of the Western Balkans, until now there has been no mechanism by which countries could share their own data with others in a transparent manner and receive updates in real time. The decision by BIH, Croatia, Kosovo, Montenegro and Serbia to participate in the Database project is a major step forward in terms of strengthening regional cooperation to account for around 12,000 people who are still missing from the region.	

Recommendations (A/HRC/30/38/Add.2)	Situation during the visit (A/HRC/30/38/Add.2)	Measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		The Database contains, at a minimum, the missing person's first name, father's name, last name, date of birth, place of birth, date of disappearance, place of disappearance, municipality of disappearance, identification (if any, date), and countries in which the disappearance has been registered. ICMP ensures that the data is accessible and searchable by the competent authorities in Croatia, BIH, Kosovo, Montenegro and Serbia on the basis that these authorities reciprocally provide their data relevant to active missing persons cases for inclusion in the Database. In this way, the Database will enhance regional cooperation with a view to resolving missing persons cases from the conflicts in the former Yugoslavia. Other ICMP project, According to ICMP, the list should be ready by the end of 2018.	
90. Speed up the process of tracing missing persons through strengthened cooperation with institutions engaged in tracing disappeared persons in neighbouring countries, especially between prosecutors and judicial institutions. Such cooperation must include the exchange of relevant evidence.	See paragraphs 8, 12, 49, 50, 51, 53, 54 and 55 of the report.	Government The OMP is making tremendous efforts to expedite the process of tracing missing persons through intensified cooperation with the institutions responsible for tracing missing persons in the neighbouring countries, including in particular prosecutors and judicial institutions, and is actively involved in the UNDP project "Enhancing Regional Cooperation in Processing of War Crimes and the Search for Missing Persons". The project aims to improve the efficiency and effectiveness of cooperation between the prosecution offices in the countries of former Yugoslavia in the processing of war crimes and to strengthen the capacities of the bodies responsible for finding missing persons in armed conflicts. In 2017, two regional consultation meetings were held in Zagreb and Budva, while the third meeting was held on 26 January 2018 in Sarajevo and was attended by representatives of the missing persons offices of Serbia, Croatia, Bosnia and Herzegovina and Montenegro. On that	The WGEID appreciates the reply of the Government which demonstrates that efforts are being made in this area, but also that cooperation continues to be hampered by mutual accusations among the authorities of different entities. It notes the information that The War Crimes Prosecutor Office of the Republic of Serbia submitted a total of 483 applications for legal assistance to competent prosecutor offices across the region as well as the continued cooperation with the War Crimes Prosecutor Office with the Prosecutor Office of the International Residual Mechanism for Criminal Tribunals.

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		occasion, the Chairperson of the Committee for Imprisoned and Missing Individuals of the Croatian Government Mr. Stjepan Sucic, while presenting the results achieved in 2017 and the plans for 2018, said the Government of the Republic of Croatia was not satisfied with the existing legal framework with the Republic of Serbia and was reviewing the Agreement on Cooperation in the Search for Missing Persons, which he said was the reason why they had stopped cooperating with the Commission on Missing Persons of the Government of the Republic of Serbia. The Chairperson of the Commission, Mr. Veljko Odalovic, then voiced his dissatisfaction with the current situation, noting that legal mechanisms were in place for such situations and the Serbian party should have been officially notified and adding that activities should continue normally until a new adequate legal framework is found. Mr. Odalovic also said it was necessary for the Croatian party to arrange a meeting to agree on future cooperation mechanisms that would be acceptable to both sides. The UNDP representative undertook to meet with Mr. Sucic and explain to him the need for a bilateral meeting on this issue, which should be held in Zagreb and be in accordance with the existing legal framework. It should also be noted that work is underway to put in place legal arrangements that would enable the formation of a prosecution office that would process war crimes committed in Kosovo and Metohija within the framework of this project, to ensure that all institutions that could contribute to this issue are involved in it. Government: additional information The Republic of Serbia is committed to regional cooperation on solving the issue of war crimes, through the War Crimes Prosecutor Office, and has been continuously taking steps towards promotion of that cooperation. Regional cooperation is carried out in the field of investigating war crimes, obtaining evidence and prosecuting of perpetrators. The	

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		cooperation is realized in accordance with the documents on cooperation, mostly through applications for provision of legal assistance and through assignment or takeover of criminal prosecution. The War Crimes Prosecutor Office of the Republic of Serbia (since it was founded on 5 February 2018) received a total of 1,311 applications for legal assistance from the competent Prosecutor Offices in Bosnia and Herzegovina, Croatia, Montenegro and the Special Prosecutor Office for crimes committed by KLA in Kosovo and Metohija. The War Crimes Prosecutor Office of the Republic of Serbia submitted a total of 483 applications for legal assistance to the competent Prosecutor Offices in Bosnia and Herzegovina, Croatia, Montenegro and the Office of Special Prosecutor Office for crimes committed by KLA in Kosovo and Metohija. Regular regional conferences like the "Palić Process" and Regional Conference of Prosecutor Offices in Brioni represent a special type of regional cooperation, along with participation in the implementation of regional projects like "Processing War Crimes and the Search for Missing People" (2015-2017, 2017-2019) implemented with the support of UNDP. Eight regional and bilateral consultations and/or meetings with the representatives of competent Prosecutor Offices from countries of the region were held within that project. Main directions for cooperation are harmonized at regional consultations, whereas information is shared and cooperation on actual cases is coordinated at bilateral meetings. War Crimes Prosecutor Office also cooperates with Provisional Institutions of Self-Government in Priština, pursuant to Mutual Legal Assistance Procedures stipulated by the Integrated Border Management Agreement (IBM) adopted by the Government of the Republic of Serbia through the conclusion on 7 March 2013. After adoption of	

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		the Procedures, the cooperation was carried out through the EULEX Special Prosecutor Office in the Autonomous Province Kosovo and Metohija. The tendency of explicit or tacit refusal of Provisional Institutions of Self-Government in Priština to act upon applications for mutual legal assistance of the War Crime Prosecutor Office of the Republic of Serbia is prominent due to limitation, and then termination of mandate of EULEX Mission on the territory of AP Kosovo and Metohija. The cooperation of War Crimes Prosecutor Office with the Prosecutor Office of the International Residual Mechanism for Criminal Tribunals is continuous and intense. The cooperation is carried out through the Liaison Officer of the Office of the Prosecutor at the International Residual Mechanism for Criminal Tribunals and promoted through regular periodic meetings. Main directions for cooperation are discussed and activity schedule is harmonized at the meetings held at the level of prosecutors (War Crime Prosecutor of the Republic of Serbia - Chief Prosecutor of the International Residual Mechanism for Criminal Tribunals), whereas working meetings and consultations at the level of case processors (deputy War Crime Prosecutors – prosecutors, investigators of the International Residual Mechanism for Criminal Tribunals) are used for evidence, expertise and experience sharing. Through the Liaison Officer, the War Crime Prosecutor Office submitted 152 applications for assistance to the Prosecutor Office of the International Criminal Tribunal for the former Yugoslavia and the International Residual Mechanism for Criminal Tribunals. On the basis of the applications submitted, the War Crime Prosecutor took over 12,037 documents on 458,509 pages and 276 audio and video recordings from the Prosecutor Office of the International Criminal Tribunal for the former Yugoslavia and the International Residual Mechanism for	

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		Criminal Tribunals. The wrong information listed on page 10 of the Table in the document of the competent public authorities of the Republic of Serbia and the relevant civil society organizations, stating: "It should also be mentioned that there are activities on establishing the legal conditions to enable the forming of the Prosecutor Office to prosecute war crimes committed in Kosovo and Metohija within this project, to ensure the inclusion of all the institutions that can contribute to solving of this issue" should be deleted. Humanitarian Law Center Regional cooperation on war crimes cases is of immense importance, because it allows for the transfer of criminal proceedings and exchange of evidence, which enable prosecution of those suspects who would otherwise be inaccessible to the judicial authorities of any country other than their own. OWCP has not had cooperation with the Kosovo institutions during 2017. Lack of cooperation is explained by the OWCP as a consequence of the end of the EULEX mandate to start new investigations in Kosovo since May 2014, which mandate has been transferred to Kosovo Prosecutors, who refuse to cooperate with the OWCP. In more than three years, the OWCP has not issued a single indictment for crimes committed in Kosovo. When urged by the HLC to take action on the criminal complaints lodged for crimes in Kosovo, the OWCP have replied that they are unable to investigate the crimes committed in Kosovo, because according to Kosovo's Ministry of Justice, the OWCP has no territorial jurisdiction to investigate acts "assumed to have taken place in Kosovo". The HLC stands on the point that the question of cooperation between prosecutors' offices in Serbia and Kosovo must be a	

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		part of the Brussels negotiations between these states, in such a way as to enable further cooperation of both sides in prosecuting the war crimes. The Republic of Serbia has the right no' to recognize Kosovo as an independent state, but it cannot let this political decision interfere with its legal obligation to prosecute war crimes within its jurisdiction. All trials in which the indictment has been approved, after the adopting of the National Strategy (February 2016) until the end of the 2017, are the result of the regional cooperation, but from the quantity of data a conclusion cannot be reached about the quality of the transferred cases or about the quality of the regional cooperation itself. In this period, a total of ten cases have been adjudicated, and all of them, except one which was transferred by the ICTY, were the result of regional cooperation. The OWCP did not participate in an annual regional conference on September 2016 on the Brijuni Islands in Croatia. As the decision not to participate in the conference came at the time bilateral relations between Serbia and Croatia had hit a low point, the HLC sees this as alarming evidence of political interference with the judiciary, which undermines the implementation of both the Action Plan for Chapter 23 and the National Strategy for the Prosecution of War Crimes. Namely, the Action Plan for Chapter 23 foresees joint activities among prosecutor's offices in the region in the field of war crimes prosecution, and the National Strategy states as one of its goals to "give support to the judiciary through improving regional cooperation", and specifically mentions the participation of the OWCP in the regional conferences of war crimes prosecutors. Other OWCP is running a regional project. ICRC in Serbia sensitised the Ministry of Justice to the necessity for courts to	

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		share information, MoJ pledged they will follow suit.	
91. Everyone involved must support the search for missing persons by providing relevant information and documentation at the national and regional level.	See paragraphs 10 and 12 of the report.	Government To achieve maximum exchange of relevant information and documentation between the state authorities involved in the process of searching for missing persons, the OMP has formed the Expert Group on Resolving Missing Persons Cases in Former SFRY, with the aim of improving cooperation between the state authorities involved in the investigation and prosecution of war crimes and expedite the exchange of data relevant for uncovering the fate of missing persons. The main task of the Expert Group is to collect, process, exchange and analyse data relating to sites, events and specific cases of missing persons. The Expert Group includes representatives of the Commission on Missing Persons, the Office of the War Crimes Prosecutor, the Ministry of Justice, the War Crimes Investigation Service of the Ministry of Interior, the Ministry of Defence, the Military Security Agency, the Military Intelligence Agency and the Security Information Agency. Also, the OMP and the Belgrade delegation of the Working Group on Missing Persons are making sustained efforts to continue and expedite the search for missing persons in the Autonomous Province of Kosovo and Metohija, as the scope of these activities has been reduced and their pace has slowed down. In this context, the Committee on Kosovo and Metohija passed in its Tenth Session held on 19 October 2015 the Decision on the Formation of a Working Group on Finding Facts and Evidence to Resolve Crimes against Serbs and Members of Other National Communities in Kosovo and Metohija. The Working Group comprises the chairperson, members and deputy members of the Committee on Kosovo and Metohija and representatives of state authorities (the Office of the War Crimes Prosecutor, the War Crimes Investigation Service of the Ministry of Interior, the Commission on Missing Persons and the Group on the Judiciary, Human Rights and Property	The WGEID notes that upon request of the War Crime Prosecutor Office, and for the purpose of conducting actual criminal proceedings, the Commission on Missing Persons submits documents and data from its records to the War Crime Prosecutor Office. See also observation related to recommendation 86

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		Law Issues of the Office for Kosovo and Metohija). The Working Group is tasked with finding facts and evidence which may help resolve crimes against Serbs and other national communities. The Committee for Kosovo and Metohija will submit the facts and evidence thus found to the Special Court for War Crimes in Kosovo through the Office of the War Crimes Prosecutor. Government: additional information Since 2006, when it was founded by the Government of the Republic of Serbia, the Commission on Missing Persons has been cooperating with the War Crime Prosecutor Office, and the joint activities are promoted through enabling continuity in data and information sharing, as well as activity coordination. Cooperation of the Commission on Missing Persons and the War Crime Prosecutor Office was made formal through the Memorandum of Cooperation signed on 12 June 2018. The Commission on Missing Persons provides expert and technical assistance to War Crime Prosecutor Office in the course of scene investigation to establish the possible presence of remains on a certain site. Upon request of the War Crime Prosecutor Office, and for the purpose of conducting actual criminal proceedings, the Commission on Missing Persons submits documents and data from its records to the War Crime Prosecutor Office. The Commission on Missing Persons informs the War Crime Prosecutor Office on the activities undertaken and significant events regarding the process of searching for missing persons at the national and international levels, if such activities and events could be of importance for the investigation and prosecution of criminal offences under the jurisdiction of the War Crime Prosecutor Office. These events and activities mostly include, but are not limited to, the following: identification performed; handover of remains to family	

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		members; activities on finding the missing persons in the countries in the region and/or the territory of the Autonomous Province Kosovo and Metohija; events of special significance for cooperation of the Commission on Missing Persons and bodies dealing with issues regarding missing persons in the countries in the region and/or the territory of the Autonomous Province Kosovo and Metohija. The Commission on Missing Persons forwards information on circumstances of disappearance of certain persons and possible sites on which the bodies of murdered persons are buried to the War Crime Prosecutor Office. Employees of the Commission on Missing Persons obtain such information in the course of their work, during contact with family members of missing persons, and cooperation with colleagues from the region, or in other ways. In accordance with the objective defined in point 5 of the National Strategy for War Crime Prosecution, the War Crime Prosecutor Office continued with the activities on promotion of cooperation between state authorities included in investigation and prosecution of war crimes, through participation of its representatives in round tables and mixed working bodies. Apart from the aforementioned, the intensified cooperation between the War Crime Prosecutor Office and the Commission on Missing Persons resulted in the idea for establishing cooperation between the Prosecutor Office of the International Residual Mechanism for Criminal Tribunals and the Commission on Missing Persons. During its mission, the Prosecutor Office of the International Criminal Tribunal for the former Yugoslavia collected a large amount of data and documents on circumstances of disappearance, for its own investigations. Medical and forensic teams hired upon request of the Prosecutor Office of the International Criminal Tribunal for the former Yugoslavia	

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		made a very valuable documentation about remains found on the territory of conflicts, particularly on the territory of the Autonomous Province Kosovo and Metohija (reports on autopsy and identification, reports of forensic teams of the Prosecutor Office of the International Criminal Tribunal for the former Yugoslavia performing exhumations of bodies and performing investigations of persons, objects and scenes, as well as other similar documents)[7]. Those data are very significant for the completion of records of the Commission on Missing Persons and further activities on resolving the fate of persons still registered as missing. We believe that the update and completion of records of the Commission on Missing Persons with new information will contribute to the quality of proceedings under the jurisdiction of War Crime Prosecutor Office. Good cooperation of the War Crime Prosecutor Office and the International Commission on Missing Persons (ICMP) is also indicated by the statement of Mr. Matthew Holliday, ICMP Head of Western Balkans Program (5 October 2017), who pointed out that the International Commission on Missing Persons has the most successful cooperation with the War Crime Prosecutor Office, both in terms of statistical indicators reflected by the applications submitted and in terms of establishing a mutual relation of trust among representatives of that War Crime Prosecutor Office and the International Commission on Missing Persons[8].	

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[7] Through joint efforts of Liason Officers and staff of the Tribunal working on processing the applications for assistance of the War Crime Prosecutor Office, medical and forensic documents of extreme value in terms of evidence were found in databases, and used in cases of War Crime Prosecutor Office.

[8] ICMP has successfully identified about 1300 victims whose bodies were exhumed on the territory of the Republic of Serbia. According to ICMP data, there is an ongoing search for about 12000 more missing persons on the territory of former Yugoslavia. At the meeting it was arranged that ICMP will continue providing assistance to the War Crime Prosecutor Office in the same manner and under the same terms, through ICMP Office in Tuzla, and relocation of the laboratory to Hague will not incur additional costs.

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		Humanitarian Law Center The key problems that make the search for missing persons more difficult are the lack of strong and continuous political support, insufficient information on potential mass graves, and difficulties in the identification of exhumed human remains. It is necessary to intensify the process of information exchange at the regional level between commissions and other competent bodies. Other There is awareness.	
92. Continue the regional dialogue on missing persons and initiatives aimed at finding solutions to properly solve the issue.	See paragraphs 15, 16 and 38 of the report.	Government The OMP has continued the regional-level dialogue on missing persons and supports regional initiatives to find a proper solution to this issue. In this context, the Site Locator online application of the International Commission on Missing Persons was presented in a conference held on 6 December 2017 in Belgrade. In addition to the organisers, the conference was also attended by representatives of associations of missing persons' relatives from former Yugoslavia and from the Autonomous Province of Kosovo and Metohija. The Commission for Missing Persons of the Government of the Republic of Serbia has launched the Site Locator application in Serbia in cooperation with the International Commission on Missing Persons to help discover hidden grave sites. The aim of this application is to help improve and expedite the process further, since lack of information is currently the greatest problem encountered in the efforts to find missing persons. Furthermore, this form of cooperation between the OMP and the ICMP is a joint effort to help families learn about the fate of their closest ones, regardless of their ethnic, religious or any other affiliation. The application can also be accessed from the OMP website and the information thus collected will help locate potential mass and hidden grave sites, which will also provide	See observation related to recommendation 86

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		invaluable assistance to the OMP in its efforts to find missing persons. The application can also be accessed via the ICMP Online Inquiry Centre, which allows for reporting of mass graves and other sites where the bodily remains of missing persons in connection with the armed conflicts in former Yugoslavia and the conflict in the Autonomous Province of Kosovo and Metohija can be found. Data can be entered online, anonymously or with contact details, to help discover hidden burial sites. Government: additional information With regards to allegations of the Humanitarian Law Centre about obstruction of access to relevant information and documents of public importance, we would like to point that the evidence of crimes against Serbs committed on the territory of AP Kosovo and Metohija, collected by UNMIK, has been systematically destroyed over the past years, which is why UNMIK was not able to hand over evidence of crimes against Serbs to EULEX. On 15 August 2012, the archives of the Police Station in Peć, the database – archives in the building of the EU in Dragodan in Priština, and the files of the Headquarters of Kosovo Police in Priština were all set on fire. The main witnesses of various investigations of the so-called high profile suspects for crimes against Serbs have been assassinated over the years. Humanitarian Law Center In the HLC's view, inefficiency in the search for missing persons can be explained by a lack of political will, which is reflected in the insufficient commitment of the competent Serbian authorities to the search for missing persons who belong to other ethnicities, their insufficient capacity for the search (the main department of Commission for Missing Persons Serbia employs only 4 people), the lack of action and engagement on the part of the prosecuting authorities in the search for missing persons and in the	

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		prosecution of those responsible, the prevention of access to official archives relevant to the search for missing persons, etc. The importance of regional cooperation in the search for missing persons from the wars in the former Yugoslavia cannot be overstated, as information on gravesite locations and the gravesites themselves are often located in different countries in the region. Because of that, the HLC believes that the two aforementioned activities are absolutely inadequate and that the issue of cross-border cooperation between the institutions responsible for missing persons in the region must be addressed. A recent incident which occurred at a meeting where the exhumation and identification of the mortal remains of persons who went missing in Croatia were discussed clearly showed how important regional cooperation is. The Chairman of the Commission on Missing Persons of the Government of Serbia walked out of the meeting after the Assistant Minister at the Croatian Ministry of Veteran Affairs had spoken about the "Greater Serbian Aggression against Croatia". Other Regional dialogue is ongoing. According to ICRC, it is prompted by international community rather than the countries themselves.	
93. Implement fully the Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses, signed by Bosnia and Herzegovina, Croatia, Montenegro and Serbia.	See paragraph 15 of the report.	Government The signing of the Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses, which was signed on 29 August 2014 in Mostar by representatives of Serbia, Croatia, Montenegro and the Chairman of the Presidency of Bosnia, aims to promote the process of finding missing persons and define the responsibility and role of	The WGEID notes that more efforts should be made to fully implement the "Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses", notably when it comes to its article 7 related to the prosecution of war crimes.

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		states in addressing this issue. In this document, the states reaffirmed their commitment to addressing the issue of persons missing as a consequence of armed conflict and human rights abuses as part of the state's responsibility to ensure lasting peace and improve cooperation and reconciliation in democratic societies which promote and protect human rights. In this context, the OMP welcomes the initiative for regional conferences on missing persons at the level of heads of state, to highlight the importance of the results achieved so far and to encourage further improvement and expediting of the process, which is becoming increasingly complex and difficult. Regional conferences were held in Sarajevo, Zagreb, Pristina and Belgrade in 2017. The International Red Cross Committee received reports of 34,987 cases of missing persons in the region; according to the information provided by that organisation as of November 2017, after 20 years of searching, 10,373 persons are still considered missing. Humanitarian Law Center The Republic of Serbia has failed to implement fully the Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses. The Presidents of Serbia, Montenegro, Croatian and BiH signed in 2014 the Declaration on the role of the state in resolving the issue of missing persons in connection with the wars and violations of human rights. In Article 7 of the Declaration, Serbia has committed to prioritising the prosecution of those perpetrators who are responsible for the forced disappearance of persons and their further concealment. With the exception of the *Sotin* Case, Serbia has not demonstrated a sincere commitment to this goal. Moreover, after the release of "Rudnica" Dossier, in which the HLC presented evidence indicating that units commanded by the current Chief of Staff of the Serbian Army, Ljubisa	

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		Diković, participated in crimes in Kosovo whose victims were missing for 15 years, and some of them up to this day, President Nikolić issued a warning through the media to the OWCP to "watch out what they are digging up in Serbia." Serbia will have to prove its intention of resolving the fate of the missing, first of all, through the prosecution of high-ranking perpetrators, because only they have the actual capacity to continue to prevent their discovery. ICMP On 29 August 2014 at a historic event hosted by ICMP, Chair of the Presidency of Bosnia and Herzegovina Bakir Izetbegović, President of the Republic of Croatia Ivo Josipović, President of Montenegro Filip Vujanović, and President of the Republic of Serbia Tomislav Nikolić signed the Declaration in Mostar, BIH. The purpose of the Declaration is to define the best practice principles to help guide States in accounting for the missing from conflict and human rights abuses. The first signatories include those countries and their successor states that were party to the Dayton Peace Agreement. Of the 40,000 persons missing from the armed conflicts of the 1990s in the former Yugoslavia, more than 70 percent have been accounted for. This is unprecedented in any post-conflict context anywhere in the world. By signing the declaration, BIH, Croatia, Montenegro and Serbia demonstrated the growing ability of States to assume ownership of the process of accounting for large numbers of missing persons, through their domestic institutions and through specialized international organizations, such as ICMP. The Declaration highlights the primary responsibility of State authorities in addressing the issue of the missing and the need to ensure that mechanisms and methods employed conform to human rights standards and the rule of law. In addition, the	

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		Declaration seeks to ensure that the rights of family members of the missing are upheld at all times, and that survivors and society as a whole have access to information regarding the fate of the missing and that proper investigations are undertaken in the pursuit of truth and justice. The Declaration seeks to ensure that past wrongs are addressed through accountable and just State institutions. The Declaration is being implemented fully by signatory states. All signatory states have demonstrated the primary responsibility of the state in the process of accounting for the missing (Article 1). All signatory states continue to uphold the rights of survivors to know the fate of their missing relatives, by conducting effective investigations into missing-persons cases (Article 2). All signatory states have built effective domestic institutions, i.e. government commissions on missing persons (Article 3). All signatory states are cooperating regionally and internationally for the purpose of elucidating the fate of the missing (Article 4). All signatory states are implementing measures that conform to the requirements of human rights obligations and the rule of law, including those of the criminal justice system (Article 5). All signatory states, through effective investigations, are addressing the need to establish the circumstances surrounding disappearances and the issue of impunity (Article 6). All signatory states have established dedicated war crimes prosecutor's offices, thereby emphasizing the role of the judiciary (Article 7).	
94. Improve cooperation in accordance with the 1996 bilateral protocol between Serbia and Croatia.	See paragraphs 21, 38, 48, and 51 of the report.	Government The issue of missing persons is one of the most complex outstanding issues in the bilateral relations with the Republic of Croatia and, as such, has been addressed in high-level meetings between the state officials of the Republic of Serbia and the Republic of Croatia, taking into account in particular the humanitarian importance of this issue, as well as its impact on other major political issues, such as return of	The WGEID is concerned at the information that the bilateral cooperation with Croatia, while still formally in place and in progress, has actually reached a stalemate as the Protocol is being revised.

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		refugees and strengthening of neighbourly relations and trust between ethnic and religious communities. Efforts to address the issue of missing persons received a significant impetus with the signing of the Declaration on Improving Relations and Resolving Open Issues between the Republic of Serbia and the Republic of Croatia, signed by the Prime Minister of the Republic of Serbia Aleksandar Vučić and the President of the Republic of Croatia Kolinda Grabar Kitarović on 20 June 2016 in Subotica. Resolving open issues will be key if any major progress is to be made in the efforts to find missing persons. However, further progress in this process will depend on further intensification and coordination of activities of all competent authorities and institutions in resolving this issue with the Republic of Croatia, to ensure systematic, sustained progress in this field and to help resolve more missing persons cases on both parties' lists. In bilateral contacts with the Croatian side at all levels, the Serbian side should continue insisting on: verification of unreported missing persons cases according to the ICRC criteria; expediting the process of identification of already exhumed bodily remains; exhuming the remaining registered grave sites of persons of Serb ethnicity in the Republic of Croatia and identification of already exhumed bodily remains; resolving the cases of missing members of the former Yugoslav People's Army and other persons on the missing persons list of the Republic of Serbia; consistent compliance with the signed intercountry cooperation agreements in this area, because further progress in this process will require intensified operational activities in 2016, including continual bilateral meetings between the competent government bodies responsible for seeking missing persons, since the last meeting of this kind was held on 2 and 3 June 2015 in Belgrade; and faster access to relevant documentation. In order to respond to the repeated Croatian requests in connection with the provision of information on potential grave sites and individual graves, as well as on dislocated	

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		grave sites, it is imperative that all state authorities and competent ministries, if they hold information relevant for resolving the specific missing persons cases, make such information available as soon as possible and provide it to the OMP, including any relevant information on the location of potential grave sites and individual graves obtained from ground exploration in the Republic of Croatia in 1991–1995, in order to foster cooperation in accordance with the 1996 bilateral agreement between Serbia and Croatia and the protocol on cooperation on missing persons issues; the Croatian side will have to hold a bilateral meeting in Zagreb as soon as possible in accordance with these document. Furthermore, the Protocol on Cooperation in the Search for Missing Persons between the Government of the Republic of Serbia and the Council of Minister of Bosnia and Herzegovina governs cooperation in this area, taking into account its humanitarian and political importance and specific nature. This Protocol should lay the foundations for further improvement of bilateral and regional cooperation in this area. According to the Protocol, the competent authorities of both parties will agree on and establish working rules and procedures for its implementation. The Serbian party has already done this and has presented the Bosnian party with the Draft Working Rules and Procedures. Until this text is agreed and endorsed by both parties, the practice that has been observed in relations between the two parties' competent authorities to date will continue to apply. Humanitarian Law Center Regional cooperation between Serbia and Croatia has practically stopped, and can be described just as protocol cooperation, in which no significant improvement can be identified. Other The Protocol is under revision – initiated by the Croatian	

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		Department for Detained and Missing Persons (DDMP). The final draft of the revised Protocol should be submitted to Serbian authorities by the beginning of August 2018. Serbian Commission for Missing Persons expressed concern that the new Protocol may take some time before entering into force (requires government adoption and parliamentary ratification), i.e. may impede the process. Serbia instead proposed to work on agreeing the revision of working/technical procedures (which DDPM unilaterally suspended in January 2018, without prior notice to its Serbian counterpart), but DDMP insisted on the revision of the entire Protocol.	
95. Offer more in-service training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international instruments.		Humanitarian Law Center According to the Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings, in the placement of judges in the War Crimes Department of the Higher Court, preference should be given to judges who possess the required expertise and experience in the field of international humanitarian law and human rights law. This provision was echoed in the National Strategy for the Prosecution of War Crimes. Nevertheless, in the preceding period no trainings for judicial office holders have been delivered. Other No specific training is available.	The WGEID is concerned that training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international instruments on human rights and humanitarian law is not offered.
96. Immediately open archives that are relevant to cases of enforced disappearances in order to facilitate the localization of undiscovered gravesites and speed up the search for missing persons.	See paragraph 12 of the report.	Government To enable access to information and documents held in archives which are relevant for enforced disappearance cases, with the aim of facilitating the identification of undiscovered grave sites and expediting the search for missing persons, the OMP has undertaken concrete steps, which have helped resolve a number of cases to date and we hope documentation will be provided in the future to help resolve	The WGEID regrets that access to archives and disclosure of relevant information on cases of enforced disappearance remain problematic. It appreciates the information according to which, acting upon the application for assistance of the Prosecutor Office of Bosnia and Herzegovina, the War Crime Prosecutor Office sent the documents from the Committee archives to

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		further cases. Government: additional information In the course of promotion of efficiency of work and availability of data, upon request of the War Crime Prosecutor, the archives of the Committee for collection of data on crimes against humanity and international law was relocated from the premises of the Government of the Republic of Serbia to the premises of the War Crime Prosecutor Office, and the cases are currently being classified according to the territory (the Republic of Croatia, Bosnia and Herzegovina and AP Kosovo and Metohija). Relocation of archives and classification of files has already presented good results, particularly in terms of regional cooperation. Acting upon the application for assistance of the Prosecutor Office of Bosnia and Herzegovina, the War Crime Prosecutor Office sent the documents from the Committee archives to the Prosecutor Office of Bosnia and Herzegovina, and those documents were used as evidence in the proceedings of the Prosecutor Office of Bosnia and Herzegovina. Humanitarian Law Center Several domestic and international institutions and organizations have urged Serbia to open up the archives of the Yugoslav National Army (YNA). In its three resolutions on Serbia's progress reports, the European Parliament has urged Serbia to open up the archives of the YNA and conduct a more thorough investigation into those archives in order to establish the truth of the armed conflicts in the former Yugoslavia. The competent authorities continue persistently to deny access to archives that could assist in finding missing people, no one has been found criminally responsible or prosecuted over the mass graves found in Serbia, and access to	the Prosecutor Office of Bosnia and Herzegovina, and those documents were used as evidence in the proceedings of the Prosecutor Office of Bosnia and Herzegovina.

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		reparation is made virtually impossible for the families of missing persons. For the past few years, the Ministry of the Interior (MoI) and Ministry of Defense (MoD) have been unlawfully obstructing access to information and documents of public interest that are essential for reconstructing past events, including the facts about crimes and victims of enforced disappearance. These two ministries have invariably refused to provide the HLC with access to the information and documents sought, especially where the documents concern crimes regarding which there are strong indications that they were committed by members of the police or military. Some of the requests for access to information made by the war crimes judiciary have received similar treatment by the two ministries. The OWCP publicly said that the ministries lied when stating that the documents requested by the OWCP had been destroyed as a result of the NATO bombardment. What happened in the *Trnje* Case, conducted against former members of the Yugoslav Army (YA) 549th Motorised Brigade who are now active-duty members of the Army of Serbia, is just the latest example of denied access to information of public interest. When during the main hearing in this case the Presiding Judge said that the Serbian Army General Staff had refused to deliver to the court the documentation pertaining to the 549th Motorized Brigade, claiming they did not possess it, the former commander of the brigade said that the documentation did exist, as it was permanently preserved. No progress has been made in the past two years towards opening the official archives for the purpose of searching for missing persons. As the Chairman of the Commission on Missing Persons of the Serbian Government put it, "we are not in a position to rummage through their [MoI's and	

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		MoD's] archives". Other Serbian Ministry of Interior opened archives relevant for the conflict in Kosovo. The long outstanding issue remains archives of the Serbian Ministry of Defence.	
97. The Government of Serbia and the authorities in Kosovo should actively contribute to the Working Group on Missing Persons, including with information on new gravesite locations.	See paragraphs 20 and 34 of the report.	Government The Government of the Republic of Serbia and the Kosovo authorities are actively contributing to the work of the Working Group on Missing Persons and are making sustained efforts to continue and expedite the search for missing persons in the Autonomous Province of Kosovo and Metohija and make it more efficient through exchange of information on new grave sites obtained through the established cooperation mechanism. Since the formation of the Working Group in 2004 to date, the Belgrade delegation has made efforts to comply with its obligations and help improve the process and expedite the activities, in the belief that there is no alternative to joint work and direct cooperation between Belgrade and Pristina in addressing the issue of missing persons of all ethnicities. In 2005, the Working Group formed the Working Subgroup on Forensic Issues, whose primary mandate is to ensure better management of the forensic process and improve exhumation and identification of persons murdered in the events which unfolded in Kosovo. The Working Subgroup on Forensic Issues formed an Analysis Team, consisting of representatives of Belgrade, Pristina, EULEX and the International Red Cross Committee, to analyse the existing relevant information relating to specific cases or events, with the sole aim of helping resolve the fate of missing persons. Humanitarian Law Center Serbia and Kosovo have made very little progress in ascertaining the fate of missing people, and the search has	The WGEID notes the contribution of the Belgrade delegation to the Working Group on Missing Persons, which have led to some, though limited, progress.

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		slowed down considerably. According to representatives of Serbia's institutions, the problems which prevent the efficient search for persons who went missing during the armed conflict in Kosovo are the following: not acting upon Serbia's requests, the reduced scope and slow dynamics of the activities, the stop to exhumation processes in Kosovo, and the slowness in the identification process. On the other hand, representatives of Kosovo institutions indicate the lack of Serbian will to open the archives and deliver all the relevant information regarding the secret locations containing bodies of Albanians. The HLC considers that the lack of political will in both Serbia and Kosovo impedes the efficient search for the missing persons, as is indicated by the ever-slower dynamics of the exhumation and identification of human remains, as well as of the finding of the locations with victims' remains. Other The contribution may not be easy to measure unless a specific mass grave is discovered. However, Pristina's contribution over years has been limited, with the exception of the latest discovery of a mass grave in the vicinity of Djakovica (five human remains found), but according to ICRC this site was direct result of their archives researcher's work. Belgrade can be said to have shared significant amount of information and they checked every location indicated to them as a potential mass grave.	
B. Recommendations to Serbia 98. Establish enforced disappearance as a separate offence in accordance with the definition contained in the Declaration on the Protection of All Persons from Enforced Disappearance. The offence of enforced disappearance	See paragraphs 13 and 27 of the report.	Government By adopting the National Strategy for the Prosecution of War Crimes in February 2016, the Republic of Serbia for the first time stated its commitment to full harmonisation with the Convention in a national strategic document. Thus, Section 5 of the Strategy states that the Republic of Serbia will continually work on compliance with recommendations of the Committee on Enforced Disappearances and will report	The WGEID welcomes the amendments to the Criminal Code made in 2016 to include enforced disappearance as a separate offence among the crimes against humanity listed in article 371. However, enforced disappearances is not yet conceived as a autonomous crime outside the context of a widespread and systematic attack against

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should be punishable by appropriate penalties that take into account its extreme seriousness.		on achieved results to the Committee. After the most recent amendments to the Criminal Code made in November 2016, enforced disappearances have finally been explicitly mentioned in our criminal legislation. Namely, the legislator decided to make amendments only by intervention in Article 371 of CC, which now states as follows: "Whoever in violation of the rules of international law, as part of a wider and systematic attack against civilian population orders: murder; inflicts on population or a part of population conditions of life calculated to bring about its complete or partial extermination; enslavement; deportation; torture; rape; forcing to prostitution; forcing pregnancy or sterilisation aimed at changing the ethnic composition of the population; persecution or expulsion on political, religious, racial, national, ethical, cultural, sexual or any other grounds; enforced disappearance; detention or abduction of persons without disclosing information on such acts in order to deny legal protection to such persons; oppression of a racial group or establishing domination of one such group over another; or other similar inhumane acts that intentionally cause serious suffering or serious threats to health, or whoever commits any of the abovementioned offences, shall be punished by imprisonment of minimum five years or imprisonment of thirty to forty years or." The explanation of the proposed amendments to CC submitted to the National Assembly states that the amendment in question is a result of harmonisation of this law with international treaties. The act of committing crimes against humanity (Article 371 of the Criminal Code) has been expanded to the so-called enforced disappearances, which ensured harmonisation with the International Convention for the Protection of All Persons from Enforced Disappearance. <ins>Humanitarian Law Center</ins> Serbia has still not established enforced disappearance as a separate offence in accordance with the definition contained	civilian population.

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		in the Declaration on the Protection of All Persons from Enforced Disappearance. Other Serbian Criminal Law was amended in 2016 and enforced disappearance was added as a separate offence in Art 371, which lists crimes against humanity. Penalty for the crimes listed in this article are "at least five years imprisonment, or prison of 30 to 40 years".	
99. Recognize the status of families of missing persons by law and guarantee their rights in a non-discriminatory manner	See paragraphs 28 and 30 of the report.	Humanitarian Law Center Serbia has not adopted a special law or a special legal procedure that would enable the victims of enforced disappearances to obtain reparation. Under the current legal framework, victims of enforced disappearance are not considered to be civilian victims of war, thus they and their families cannot obtain any type of state support. In order to obtain any kind of state support, these families are required to declare their missing family member as deceased, which is insensitive and exposes the victims to re-traumatization. Under the legislation in force, families of missing persons can obtain certain limited financial benefits, subject to age, ability to work and income threshold. However, families of disappeared civilians are in an unequal position as opposed to families of disappeared combatants, as they are preconditioned to have their relatives declared dead in judicial proceedings. Other Serbia has no comprehensive, single, law on missing persons, but there are by-laws addressing related issues. Families are asking for one law.	The WGEID reiterates the recommendation formulated at the end of the 2014 visit to adopt a comprehensive law recognizing the status and rights of relatives of missing persons.
100. Establish an effective public system of free legal aid to allow relatives of missing persons to	See paragraph 29 of the report.	Government The Draft Law on Free Legal Aid has been prepared and the	The WGEID acknowledges the development of a draft Law on Free Legal Aid and looks forward to its adoption and

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obtain legal assistance if they cannot afford it.		Law should be adopted in the third quarter of 2018. The Ministry of Justice is implementing a comprehensive public debate on the Draft Law. Humanitarian Law Center The Republic of Serbia has not adopted the Law on Free Legal Aid. The Ministry of Justice argues that the reason why this law has not yet been adopted lies in the fact that there is no possibility of reaching an agreement between the parties concerned about the question of who can provide free legal aid. Lawyers claim that only they are authorized to provide free legal aid, unlike the non-governmental sector, which claims that this restriction does not exist. Despite the fact that the European Commission in its reports insists that this law should be adopted as soon as possible, Serbia has still not fulfilled its obligation to do so. Other Law on free legal aid is in preparation as first step; there is no free legal is system in place. Mandatory defence is foreseen in criminal procedure law.	effective implementation, including with regard to relatives of missing persons.
101. Ensure a gender-sensitive approach when designing and implementing reparation programmes, in order to address gender inequality.		Government The Republic of Serbia adopted the second National Action Plan for the implementation of United Nations Security Council Resolution 1325 on Women, Peace and Security in the Republic of Serbia (2017-2020). This is a continuation of promotion of position and security of women, particularly at the local community level. The National Action Plan includes activities pertaining to gender aspect regarding events on the territory of the former Yugoslavia, in particular to: - promote the efficiency of the security system and all other actors for undertaking the necessary legislative and other measures with a view to fully commit to prevention, investigation and punishment of violent acts against women	The WGEID appreciates the information received and hopes that the new Gender Equality Law to be adopted in the fourth quarter of 2018 ensure a gender-sensitive approach when designing and implementing reparation programmes, as also recommended by the Committee on Enforced Disappearances CED/C/SRB/CO/1, para. 26 (a), after the 2015 review of the Serbia report under the International Convention for the Protection of All Persons from Enforced Disappearance.

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		in conflict and post-conflict recovery of society, crises and emergencies (activity 4.3) -enable effective and efficient work on discovering, arresting and prosecuting the perpetrators of international war crimes on the territory of the Republic of Serbia, including the perpetrators of all crimes against humanity on the territory of the former SFRY whose victims are women and girls (activity 4.8) -overcome stereotypes and prejudice against women who suffered violence during conflict and post-conflict recovery of society, crises and emergencies, empowering them to get out of isolation and stop the silence about that traumatic experience (activity 5.5). In the previous period, the Republic of Serbia implemented significant measures on harmonization of legislative and strategic frameworks with the EU standards, as well as institutional capacity strengthening to implement the policies in the field of gender equality in a corresponding manner. The Republic of Serbia ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) in October 2013. In order to enable harmonization with the Convention, amendments to the existing laws were made, and a special law in the field of violence against women was adopted. The Law on Prohibition of Discrimination governs special measures for prevention and elimination gender-based discrimination, as well as the procedure of legal protection of persons exposed to discrimination. The Law on Gender Equality from 2009 governs the details of the method of exercising equality of women and men and promotion of policy of equal opportunities. The adoption of the Law on Gender Equality is planned for the fourth quarter	

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		of 2018. The National Strategy on Gender Equality 2016-2020 and the accompanying Action Plan also stipulate numerous measures and activities that the state needs to implement in order to reduce inequalities and promote the status of women. Humanitarian Law Center Serbia has yet to undertake the first concrete steps to give effect to the recommendations of the Committee on Enforced Disappearances and other international monitoring bodies when it comes to a gender-sensitive approach when designing and implementing reparation programmes, in order to address gender inequality. Other Not fulfilled - New Gender Equality Law has not been adopted.	
102. Adopt a national human rights strategy or national action plan on human rights to address the issue of missing persons in a comprehensive manner.	See paragraph 32 of the report.	Government The National Strategy for the Prosecution of War Crimes for the period 2016-2020 was adopted on 20 February 2016; this Strategy sets specific objectives and time limits for their achievement and one of the most important objectives is efficiency of prosecution regardless of the nationality or rank of perpetrators and victims. Adoption of the National Strategy clearly and undoubtedly shows Serbia's commitment to efficient prosecution of war crimes, regardless of the nationality or religion or rank of perpetrators and victims of war crimes. The priority in acting should be given to cases which include disappearance of a large number of missing persons during wars. The objective defined under item 5 of the National Strategy for the Prosecution of War Crimes includes improvement of the normative framework or relevance for resolving the fate of missing persons, improvement of institutional and	The WGEID reiterates the recommendation formulated at the end of the 2014 visit to adopt a strategy to address the issue of missing persons in a comprehensive manner.

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		administrative capacities of government bodies included in the process of resolving the fate of missing persons, as well as their cooperation and improvement of regional and wider international cooperation in resolving the fate of missing persons. Humanitarian Law Center Serbia does not have a National Strategy on Human Rights or a Human Rights Action Plan. Other Not fulfilled - Serbia still does not have such strategy or action plan.	
103. Strengthen and systematize the witness protection programmes to ensure they are comprehensive.	See paragraphs 31 and 39 of the report.	Government The Law on the Protection Programme for Participants in Criminal Proceedings (*Official Gazette of RS* No. 85/2005) sets forth the terms and procedures for providing protection and assistance to participants in criminal proceedings and persons close to them who are exposed to a threat for life, health, physical integrity, freedom or property due to giving statements or providing information relevant for proving guilt in criminal proceedings. Protection is provided through the Protection Programme, which can include application of protective measures (physical protection of persons and property, change of place of residence or relocation to another prison institution, concealing of identity and ownership information, as well as change of identity). The Protection Programme can be implemented before, during and after completion of criminal proceedings against criminal offences against the constitutional order and security; against humanity and other values protected by international law, as well as against organized crime. The Protection Programme is implemented by the Protection Unit, which is a specialised organisational unit of the Ministry of Internal Affairs of the Republic of Serbia. The Protection Unit provides the	The WGEID notes the Law on the Protection Programme for Participants in Criminal Proceedings and appreciates the detailed reply provided by the Government on the available protection programme and measures, including the fact that, on 6 July 2017, the Ministry of Internal Affairs and the War Crime Prosecutor Office signed the Protocol on Cooperation in the field of witness protection. It is concerned though those such measures are limited, and that no systematic and comprehensive assistance exist. Furthermore, protection of victims and witnesses in war crimes trials appears to be confined to a limited time during testimony rather than being provided throughout the proceedings.

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		protected person with the required financial, psychological, social and legal assistance and all government bodies, organisations and services must render assistance to the Protection Unit, and at the its request undertake activities within their purview as required for implementation of the Protection Programme. Where necessary, the Protection Unit can also establish international cooperation while applying measures set under the Protection Programme. Decisions on inclusion, extension, suspension and termination of the Protection Program are passed by the Commission for Implementation of the Witness Protection Program, comprising three members. One member of the Commission, who also manages its work, is a judge of the Supreme Court of Serbia, the second member is the Deputy Republic Public Prosecutor and the third member is the Manager of the Protection Unit. All members of the Commission have their deputies and are appointed for the period of five years and can be reappointed, except the Manager of the Protection Unit and his/her deputy, who are members of the Commission virtue of the post held. Since such system and the Protection Programme have been established in 2006, constant evaluation has been made and, where necessary, mainly technical amendments to the Law have been proposed to ensure more efficient application of protection measures and their adjustment to social and legal dynamics. So far, the implementation of the Protection Programme has fully justified its existence and proved its efficiency, because since the beginning of its implementation in 2006, all persons included in the Protection Programme have been safe and all relevant assistance has been provided to them, in accordance with the law. It should also be noted that the Criminal Procedure Code (*Official Gazette of RS* Nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014) provides for a range of witness protection measures, from basic protection which implies that the proceeding authority must protect every	

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		witness against insult, threat and any other assault, and in this context a responsible person may be issued a warning and a fine may be imposed on him/her, and in case of violence or serious threat to a witness a responsible person can be criminally prosecuted and a Public Prosecutor or a court can request from the police to undertake witness protection measures. Furthermore, under the conditions set by the law, a Public Prosecutor or a court can grant the status of a particularly vulnerable witness. A particularly vulnerable witness can be examined only through the proceeding authority, and where necessary with assistance of an expert – a psychologist, a social worker or another expert. A particularly vulnerable witness can be examined using technical devices for transmitting images and sound, without presence of parties and other participants in the procedure in a room where the witness is located, which can be an apartment of the protected witness or premises of an authorised institution professionally qualified for examining particularly vulnerable persons. A particularly vulnerable witness cannot be confronted with the defendant, unless the defendant explicitly requires so, and the proceeding authority allows it. If circumstances exist which indicate that by giving statement or answering certain questions a witness would expose himself/herself or persons close to him/her to a threat for life, health, freedom or property of substantial size, the court may grant the status of a protected witness to such witness and authorise one or more special protection measures (examining of a protected witness under the conditions and in the manner which provide that his/her identity is not revealed to the public, and under certain conditions, exceptionally not even to the defendant and his/her defence counsel). Government: additional information With a view to promoting the cooperation, on 6 July 2017,	

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		the Ministry of Internal Affairs and the War Crime Prosecutor Office signed the Protocol on Cooperation in the field of witness protection. Together with the Witness Protection Unit, the representatives of the War Crime Prosecutor Office participate in numerous training sessions and seminars in the field of witness protection. Humanitarian Law Center Protection of witnesses in war crimes trials continues to be the most vulnerable element of war crimes trials in Serbia. Over the 2015-2018 period, no significant effort was made to address the long-standing problems in the implementation of the witness protection programme. Protection of victims and witnesses in war crimes trials is confined to a limited time during testimony, and includes only limited measures which do not meet all the needs of the victims and witnesses. The existing mechanisms for the protection of witnesses have been criticized by many relevant international institutions, including the European Union. Other Initial steps taken by doing needs analysis; some fragmented assistance is available at higher prosecution offices; there is lack of capacity and there is no comprehensive system at present.	
104. Ensure reparation is available to all victims of enforced disappearance. Compensation should not be limited to the victims of enemy forces only. Serbia should consider introducing the necessary legislative amendments in order to broaden the definition of victim.	See paragraphs 56 and 58 of the report.	Government Article 252 – 260 of the the Criminal Procedure Code set forth the general requirements and the subject matter of a restitution claim, authorised claimants, disposal, temporary measures and deciding on a restitution claim. A restitution claim which arose as a result of commission of a criminal offence or of a wrongful act designated by law as a criminal offence may relate to the compensation of damage, return of objects or annulment of a certain legal transaction. A restitution claim can be submitted during criminal	The WGEID appreciates the detailed replies and notes the Analysis of the Level of Alignment of Serbia's Normative Framework with the EU Victims' Directive submitted to the Ministry of Justice in June 2016 and hopes that the outcome of this project would bring Serbia's legislation and practice vis-à-vis victims of enforced disappearances in line with its obligations under the Declaration and the Convention.

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		proceedings, but in case of withdrawal of a restitution claim in criminal proceedings, the injured party can exercise such claim in a civil lawsuit. In addition, an expert hired by the MDTF-JSS submitted to the Ministry of Justice the Analysis of the Level of Alignment of Serbia's Normative Framework with the Victims' Directive and an analysis of the best comparable practices in 5 EU Member States in June 2016. A local expert carried out an analysis titled "Position of Victims of Criminal Offences/Injured Parties in the Criminal Law System of Serbia", which included an analysis of the level of alignment of provisions of the Law on Criminal Procedure with the EU Victims' Directive and an analysis of the level of alignment of the Law on Juveniles with relevant EU legislation on victims. On the bases of analyses made, recommendations for establishing proper and sustainable support services network for victims at the national level have been prepared and submitted to the Ministry of Justice with the analysis. Government: additional information OSCE Mission in Serbia is implementing a IPA 2016 EU founded project „Support for Victims and Witnesses of Crime" the said project among other activities has several aimed at compensation claims. In order to promote better realization of the right to compensation of victims of crime and in a greater number of cases, in criminal proceedings, instead of having to go to litigation an analysis on court practices related to deciding on compensation claims by criminal courts shall be prepared. Also drafting of a manual, for judges on the outstanding issue of compensation claims, as well as the compilation of examples of standard compensation claim scales for judges and examples of international and European regional best practices is planned. This should enable judges to easier render decisions on compensation claims in criminal proceedings and increase the efficiency of the procedure, reduce costs, no new	

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		procedure would be initiated and the position of victims would improve." The Republic of Serbia is committed to ensuring the protection of civilian invalids of war and members of their families, as well as of families of civilian victims of war. The current regulations of the Republic of Serbia precisely define the conditions for exercising the right to compensation or pension for the victims of war. The right to family pension is a personal right that, in accordance with the *Law on Pension and Disability Insurance*[9], is granted to members of the family of the deceased insuree or beneficiary of right, while fulfilling the conditions prescribed by the Law. As such, it can be recognized only if there is evidence of death, obtained in accordance with the law. The fact is that members of families of missing persons, out of reverence towards such persons, do not want to initiate a procedure in which a missing person would be declared as deceased, thus preventing the exercising of the right to compensation or pension for the victims of war. The *Law on the Rights of Civilian Invalids of War*[10] does not exclude the protection of members of families of civilian invalids of war missing under circumstances (Article 2). Namely, a missing civilian is equated with a civilian victim or deceased civilian, but for the purpose of initiating the procedure for exercising the prescribed rights for that person, it is necessary to declare the missing person as deceased in the appropriate procedure regulated by other regulations. Following the declaration of the missing person as deceased, the procedure for recognizing the rights prescribed by the	

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[9] "Official Gazette of the Republic of Serbia", No. 34/03, 64/04, 84/04, 85/05, 101/05, 63/06, 5/09, 107/09, 101/10, 93/12, 62/13, 108/13, 75/14, 142/14

[10] "Official Gazette of the Republic of Serbia", No. 52/96.

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		Law on the Rights of Civilian Invalids of War can be carried out in the shortest time possible, so that, in accordance with the mentioned international treaties, the members of the family of such person can be provided with a fast, fair and adequate compensation. No provision of ratified international treaties stipulates the obligation of States Signatories to recognize the rights established by special regulations to the members of families of missing persons who have not been declared as deceased. Therefore, the aforementioned procedure regarding the recognition of the rights prescribed by the Law on the Rights of Civilian Invalids of War is not contrary to the ratified international treaties. Regarding the allegations that there is discrimination in the protection of civilian invalids of war and members of families of civilian victims of war as opposed to military invalids and members of families of deceased soldiers, we would like to stress that: The Law on the Rights of Civilian Invalids of War is harmonised with the following international treaties: The Convention on the Rights of Persons with Disabilities, the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Convention Relating to the Status of Refugees, the Framework Convention for the Protection of National Minorities, as well as with the Constitution of the Republic of Serbia and Law on the Prohibition of Discrimination and the Law on Prevention of Discrimination against Persons with Disabilities. Special regulations regulate the special protection of all disabled persons. Within this protection, two groups of disabled persons - war veterans and victims of war, who are positively discriminated as opposed to other disabled persons, are especially distinguished.	

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		Differences in protection are based primarily on the principle of objective liability of the State for the damage incurred - disability, i.e. the loss of a family member suffered by military personnel in performing military duties/for military purposes and civilian persons. The Law on Prevention of Discrimination against Persons with Disabilities prescribes special protection for civilians who have suffered physical injuries of 50 percent up to 100 percent of disability due to wounds, injuries or lesions. With this, in terms of recognized special rights (reflected in material benefits), positive discrimination has been made towards this category of victims. Other victims, i.e. victims who have suffered psychological damage, or physical injuries of less than 50 percent, are provided with other relevant compensation that covers material damage and moral injury. This compensation is contained in other general regulations of the Republic of Serbia, which prescribe the right to compensation of damages, and is based on Article 5, item 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The law does not impose a limitation on the time period within which protection may be sought for the present case. It is important to, in the process of exercising the rights under the Law in the case which occurred outside the official period of wartime, i.e. military actions, prove the origin of explosive material, i.e. the execution of hostile diversion or terrorist action during the time of peace. We would like to point out that the Constitution of the Republic of Serbia, as well as the confirmed international treaties, do not explicitly prescribe a circle of relatives of a civilian victim of war who should be included in the protection, nor the conditions under which such relatives can achieve the said protection.	

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		In drafting the normative solutions, due care was taken to include the relatives between which there is a maintenance obligation. In this way, the Law on the Rights of Civilian Invalids of War provides for the protection of close family and parents of a civilian victim of war. Inclusion of a wider circle of relatives in this type of protection, as well as of relatives who did not live within the same household, would lead to an increase in the number of beneficiaries, which requires a significant increase in the allocation of funds for this purpose. Regarding the allegations from the Recommendation that current regulations do not provide protection for all categories of civilian victims of war, that it doesn't cover all grounds of disability and that it doesn't cover all the territories in which a civilian person was incapacitated, killed or went missing, we would like to point out the following: Pursuant to the principle of state sovereignty and the principle of the territorial validity of the law, the provisions of the previously valid Law on the Protection of Civilian Invalids of War[11], as well as the provision of Article 2 of the current law, may apply only to cases where the death or physical injury of a person had occurred exclusively in the territory of the Republic of Serbia. The special protection of civilian invalids of war and members of families of the deceased civilian invalids of war and civilian victims of war in relation to the protection of other disabled civilians and their family members is based on the increased responsibility of the State for the damage suffered by civilians under the circumstances of abuse or deprivation of liberty by the enemy during the wartime, carrying out war operations, from war material left behind or enemy diversionist, i.e. terrorist actions. This increased	

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[11] "Official Gazette of the Socialist republic of Serbia", number 6/75

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		responsibility of the Republic of Serbia towards civilians who suffered physical injuries under the said circumstances or towards the family members who have been killed, i.e. died under these circumstances outside the territory of the Republic of Serbia does not exist. Possible prescription of the obligation of the Republic of Serbia to provide a special (extended) protection to these persons would mean that the Republic of Serbia assumes responsibility for physical injuries/bodily harm or deaths of civilians arising under war or other above mentioned circumstances on the territory of other republics of the former SFRY or in any other country in the world. Persons who have, under these circumstances, been killed outside the territory of the Republic of Serbia may, according to our legislation, exercise their rights on a different basis, in accordance with the regulations in the field of protection of persons with disabilities or social protection, which are also recognized for other citizens of the Republic of Serbia. The allegation that the Law on the Rights of Civilian Invalids of War does not provide the rights to all categories of victims, such as victims of rape, is not acceptable. On the contrary, in accordance with the provisions of the Law on the Rights of Civilian Invalids of War and Victims of Rape, the status of a civilian invalid of war may be recognized if rape has occurred under the circumstances prescribed by the said law and if the victim has visible traces of wounds, injuries or lesions. In regards to the allegations of the Humanitarian Law Center, that the rights under the Law on the Rights of Civilian Invalids can be exercised only by civilians who have suffered physical injuries/bodily harm or who have suffered from hostile diversion or terrorist actions, i.e. that all victims who were subjected to violence or injury by members of the armed formations that the Republic of Serbia does not consider hostile are excluded from the protection, thereby	

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		discriminating against the members of certain national minorities in which they were targeted by members of Serbian forces during the wars of the nineties the last century, we would like to point out the following: This remark is based on individual extraordinary events that can not be valid for general practice. Such events are subject to sanctions in accordance with the general regulations of the Republic of Serbia on the responsibility of the perpetrators and material compensation for victims. Concerning the allegations mentioning the social protection of civilian victims of wars, we would like to stress that civilian victims of war, as well as all the other citizens of the Republic of Serbia, can exercise rights in the field of social protection under equal conditions, provided they fulfil the requirements prescribed by law. Humanitarian Law Center The Law on Civilian Invalids of War, dating from 1996, is still in force. Pursuant to this law, the right to the assistance and support of the state is denied to the families of missing persons, victims of sexual violence, victims who suffer from the psychological consequences of violence sustained, victims with physical disabilities of less than 50%, and victims who perished on the territory of other former Yugoslav republics, as well as those who perished as a result of the crimes committed by the Serbian armed forces. By explicitly excluding from the circle of potential beneficiaries all victims who suffered violence or were injured by formations that the Republic of Serbia does not consider as an enemy, such as the Yugoslav National Army (YNA), the Yugoslav Army (YA), the Ministry of the Interior (MUP), or the Republic of Srpska Army (RSA) and their subordinate formations, this law prevents thousands of Serbian citizens, especially members of ethnic minorities who were targeted by Serbian forces during the 90's, from obtaining any kind of	

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		social support from the State. A recent development in this area particularly reveals the unwillingness of Serbia to tackle this issue. Namely, in December 2014, the Ministry of Labour, Employment, Veteran and Social Affairs prepared a Bill on the Rights of War Veterans, Disabled War Veterans, Civilian Victims of War and their Family Members. The Bill was prepared without any consultation with victims' associations or other relevant stakeholders. The Bill itself retains the majority of discriminatory provisions from the existing Law, and it does not improve the protection of civilian victims of war in any sense. The Ministry has refused to provide the public with the text of the Bill, or the composition of the working group which participated in its preparation. The text, which was subject to public debate, is in contrast with the obligations that Serbia undertook with the Action Plan for Chapter 23, which envisages the harmonization of domestic legal provisions with the notion of the victim in international human rights protection agreements The Republic of Serbia to date has failed to ensure that reparation is available to all victims of enforced disappearance. Also, the Republic of Serbia to date has failed to adopt a definition of "victim" in Serbian legislation, in accordance with the provision of Article 24 of the Convention. In domestic legislation, the term that was used (injured party) did not include the victims of enforced disappearance as long as the disappeared person was not declared dead by their family. Other Reparations available on *ad hoc* basis and individual court cases.	
105. Ensure that all victims of enforced disappearance obtain full reparation, including restitution,	See paragraphs 57 and 58 of the report.	Humanitarian Law Center The only available mechanism for state support for victims	The WGEID welcomes that bylaws were passed and that a prior declaration of the person as dead is no longer required to

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rehabilitation, satisfaction and guarantees of non-repetition, without discrimination and without having to declare the disappeared person dead.		and families of enforced disappearance is the Law on Civilian Invalids of War. The rights that the Law provides for civilian victims and their families can be divided into three groups: (1) monetary compensation; (2) healthcare; and (3) reduced prices of public transport tickets. This Law, however, severely neglects these victims and discriminates against them. According to Article 3 of this Law: "A war victim's family member is considered to be a family member of a person who was killed or has died […]; if the family member has lived in a common household with the aforementioned person, prior to their death." Since the definition of a family member does not include family members of missing persons, but only those who have died, the only option available for these families is to declare the missing person deceased. Many families refuse to declare their loved ones dead until their mortal remains are found and before the circumstances of their enforced disappearance are determined. Considering the fact that the families of the missing belong to one of the most vulnerable categories of victims and that they live in a state of continuous trauma, their decision not to declare their loved ones deceased should not affect their right to receive help and support from the state. Other By-laws were changed and prior declaration of the person as dead is no longer required.	obtain reparation. However, it remains concerned that reparation continues to be available only to victims of former enemy forces.
106. Ensure the equitable allocation of existing resources for the civilian victims of war in order to eradicate the discrimination between, inter alia, the budget for civilian and military victims of war.	See paragraph 56 of the report.	Humanitarian Law Center Serbia has taken almost no legal measures to adequately address the rights and needs of past wars' civilian victims and their families, apart from making substantial efforts in regards to housing and resolving the status of refugees and internally displaced persons. The number of potentially eligible victims is estimated to be at least 15,000. The legal and institutional framework has been inherited from the time	The WGEID reiterates the recommendation formulated in 2014.

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		of socialist Yugoslavia and is at the same time frozen in the context of social protection. As a result of the shortcomings in the definition of a civilian victim, the largest numbers of victims are not recognised under the existing law. The rights reserved for civilian victims take the form of financial support exclusively, at levels insufficient for today's living conditions. At the same time, there are no other services of social protection of a rehabilitative, psychological, integrative or inclusive nature which have been specifically designed for this category of vulnerable citizens. Regulations governing the rights of disabled veterans and family members of fallen soldiers and deceased disabled veterans are also applied to civilian invalids of war and family members of civilian victims of war in terms of the scope of the rights and the methods and procedures for their realisation, indicating the subsidiary character (and lesser importance) of categories of civilian victims as compared to soldiers and military personnel. In addition, the regulations aimed at soldiers, disabled veterans and their families are much more detailed and elaborate, and include a somewhat larger scope of social protection, putting them in a privileged position compared to civilians. In December 2014, the Ministry of Labour, Employment, Veteran and Social Affairs prepared a Bill on the Rights of War Veterans, Disabled War Veterans, Civilian Victims of War and their Family Members. The Bill itself retains the majority of discriminatory provisions from the existing Law and it does not improve the protection of civilian victims of war in any sense. If we take into account the latest available version of the Draft Law from October 2015, published on the website of the State Secretariat for Public Policy, the authors' attempts to improve the position of disabled veterans and their families is notable, as is clear from the introduction of new rights (professional rehabilitation, priority for enrolment in educational institutions, scholarships, grants and	

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		accommodation in boarding schools, priority in solving legal rights and interests, tax and customs exemptions, etc.). On the other hand, the rights of civilian invalids of war and families of civilian victims of war have not been extended in a single aspect; instead, the existing legal regime is retained for them. Discrimination against civilians affected by armed conflict in this way becomes even more apparent. Other Serbia has no law on civilian victims of war.	
107. Raise public awareness of war crimes prosecution, including investigation into cases of enforced disappearances, in order to reduce negative feelings about war crimes proceedings.	See paragraphs 41 and 46 of the report.	Government Since the adoption of the Action Plan for Chapter 23, reports on its implementation have been published quarterly at the official website of the Ministry of Justice (https://www.mpravde.gov.rs/tekst/17033/izvestaj-br-32017-o-sprovodjenju-akcionog-plana-za-poglavlje-23.php). The practice followed so far in the publication of reports on implementation of the Action Plan for Chapter 23 will also be used for publishing of the National Strategy for the Prosecution of War Crimes. In addition, the Office of the War Crimes Prosecutor has upgraded its website and updated the data, which will enable the public to learn about the activities of the Office of the War Crimes Prosecutor in specific criminal proceedings. The Prosecutor took part in an ICTY conference held in Sarajevo on 22 June 2017, on invitation from the Post-Conflict Research Centre (PCRC), to discuss programmes of education for peace and prevention of genocide, with the aim of maintaining peace and healthy democracy in the region. The Office of the War Crimes Prosecutor participated in a press conference and an event to celebrate the International Day of the Disappeared held on 30 August 2017, to pay respect to the victims and their families.	The WGEID notes the National Strategy for the Prosecution of War Crimes as well as the fact that this Strategy sets "a raised level of awareness and an improved public attitude toward the need for war crimes trials" as one of its priorities. However, in practice, there seems to be little awareness among the general public nor specific activities aimed at raising it, also due to the unconducive political climate.

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		The War Crimes Prosecutor took part in a conference titled "Destruction of Cultural Heritage, Post-War Rebuilding and Building of Trust" held in Pula from 13 to 14 October 2017. A representative of the Office of the War Crimes Prosecutor was a member of the delegation of the Office for Human and Minority Rights of the Serbian Government at the 94th session of the UN Committee on the Elimination of Racial Discrimination held in Geneva in November 2017. On the basis of the concluding observation on the collective periodic reports (2-5) of the Republic of Serbia, the Committee on the Elimination of Racial Discrimination emphasized the National Strategy for the Prosecution of War Crimes of 2016 as a positive aspect. Government: additional information The Republic of Serbia has shown unequivocal will to determine the responsibility for war crimes, which is manifested through successful cooperation with the International Criminal Tribunal for the Former Yugoslavia, and through proceedings before the domestic authorities. This is supported by the fact that the Republic of Serbia handed over all the persons the Tribunal asked for. Also, the Republic of Serbia has acted upon all the requests of the Tribunal when it comes to the protection of witnesses who have permanent or temporary residence in a part of the territory of the Republic of Serbia in which the authorities of the Republic of Serbia exercise their competencies. In order to build public confidence in its work, the Office of the War Crimes Prosecutor strives to ensure transparency in its work, which also affects the reduction in the possibility of disinforming the public and the creation of an objective image of the conducted war crimes proceedings. Cooperation with civil society is enhanced through affirmation of common goals, reaching the truth and justice,	

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		and prevention of impunity. Citizens and Civil Society Organizations are a very important source of relevant data and documentation. In addition to citizens' associations, the media also represent an important factor in establishing trust in institutions. With transparency of work and cooperation with the media, the Office of the War Crimes Prosecutor strives to contribute to the practice of regular, objective and impartial reporting in the field of war crimes proceedings. Respecting the right to information guaranteed by the Constitution of the Republic of Serbia, the Office of the War Crimes Prosecutor, in a truthful, complete and timely manner, informs the public about the handling of specific cases, provided that it does not prejudice the interests of the proceedings, while respecting the right to privacy of participants in criminal proceedings and in a manner that will not lead to the disclosure of classified information. The appearance and content of website of the Office of the War Crimes Prosecutor has been improved in order to enable the public to monitor the activities of the Office in regards to specific cases, the implementation of relevant strategic documents, as well as all other events relevant to the work of the Office. Due to multiple advantages it provides, the website of the Office of the War Crimes Prosecutor represents, with its continuous improvement, the most important instrument of information about the work of the Office, primarily as a reliable source of all the data relevant to the work of the Office of the War Crimes Prosecutor, which is free and available at all times. In order to inform the interested parties about access to information on the establishment, organization and work of the Office of the War Crimes Prosecutor, as well as on the data relevant to the content, scope and manner of exercising their rights, the Office of the War Crimes Prosecutor has published on its website, which is also available in English,	

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		the Information booklet, which is regularly updated. In accordance with item 1.4.5.1. of the Action Plan for Chapter 23, the Office of the War Crimes Prosecutor has initiated the holding of round tables and lectures on the topic "Fundamentals of Communication with the Media" for employees of the Protection Unit and Service for Discovering War Crimes. The Office of the War Crimes Prosecutor had received support for the said activities from the team working of the project "Criminal Justice Cooperation: Strengthening Witness Protection in the Fight against Organized Crime, Terrorism and Corruption "(WINPRO III), both in terms of logistics and expertise of international experts in this field. Humanitarian Law Center The National Strategy for the Prosecution of War Crimes (National Strategy) sets "a raised level of awareness and an improved public attitude toward the need for war crimes trials" as one of its priorities. The activities to achieve this goal include presidents of competent courts acting consistently when granting permissions for recording main hearings, improving the website of the Higher Court in Belgrade, regular publication of reports on the work of the institutions responsible for handling war crimes, and on implementation of the strategic documents governing war crimes prosecution, inclusion of representatives of government institutions in the mechanisms for cooperation with civil society organizations, periodical trainings for journalists, and an analysis of teaching/learning materials and publication of the National Strategy. The National Strategy also stipulates that the highest state authorities, led by the Prime Minister and the Minister of Justice, will publicly declare their support for the work of all domestic bodies processing war crimes in the fight against impunity and for respect for the rule of law. Also, members of the Government	

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		and Assembly are expected to refrain from making inappropriate comments on the work of the judiciary in their public statements. "A raised level of awareness of and improved public attitude toward war crimes trials", as an objective stated in the National Strategy, cannot be achieved without TV reports from war crimes trials. The latest opinion survey revealed that an alarming 85 percent of people surveyed cannot name even a single war crime that has been or is being tried before a Serbian court, 79 percent cannot name a single judicial institution responsible for handling war crimes, and 50 percent saying they are ill-informed on war crimes trials. None of the goals of the National Strategy has been fully realized. For example, all requests for recording of main hearings have been denied. Other There are no specific activities while the political climate remains difficult as widely reported by civil society.	
108. Set up regular consultations with families of victims of enforced disappearance and representatives of associations of families of disappeared persons		Government The OMP has daily contacts with families of missing persons to provide information on the current situation with cases and to collect new information and facts, which can help in resolving the fate of their missing members. The OMP informs families of the facts of death of their members and provides assistance in making arrangements for the acceptance of remains, provision of documentation and transport and funeral costs. In addition, the OMP holds regular meetings with representatives of associations of families of missing persons to present the Report on Work of the OMP and attends all commemorations of important dates, memorial services and conferences organised by associations.	The WGEID appreciates that the Commission on Missing Persons of the Government of Serbia regularly meets with representatives of families of missing persons and updates them on the progress; and attends all commemorations of important dates, memorial services and conferences organised by associations.
		Предузете мере/тренутна ситуација	

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		The OMP also cooperates with associations of families of missing persons, through which it implements a part of its activities and provides them financial assistance and other forms of support. Several meetings have been held with representatives of the associations of families of missing persons in armed conflicts in the territory of the former SFRY and events in the Autonomous Province of Kosovo and Metohija, so that they could obtain information and apply for a public call with their own projects, to secure financing for specific activities. The OMP treats responsibly any piece of information which indicates the existence of mass graves and without delay, transparently examines all potential mass graves in the central part of the territory of the Republic of Serbia. As ordered by the Office of the War Crimes Prosecutor on 9 November 2015, activities have been initiated on the Kiževak mine site, the municipality of Raška, in order to determine the site of possible mass graves reported by the Pristina side. Works on this location have been suspended several times because of bad weather conditions and lack of financial funds. The location has been closed on 20 June 2017 until more precise information is obtained on the exact place of burial. Works on this location have lasted a total of 148 working days; during this period, $130,000m^3$ of solid mass has been excavated (soil, stone etc.) and about EUR 100,000 from budget funds of the Republic of Serbia and about EUR 162,000 from donor funds have been spent (Embassy of the Swiss Confederation, U.K. Embassy and Embassy of Finland). As ordered by the Office of the War Crimes Prosecutor of the Republic of Serbia, representatives of the War Crime Investigation Service of the Serbian Ministry of Internal Affairs were present at exhumations on four locations to verify information that remains of Kosovo Albanians are located there, including: 1. Kiževak (2015-2017, 4	

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		investigations); 2. Kozarevo (2015, 1 investigation); 3. Petrovo Selo (2014, 2 investigations); 4. Batajnica (2014, 2 investigations). No human remains were found on these locations. In addition, as ordered by the Office of the War Crimes Prosecutor, representatives of the Service were present at exhumation on the Rudnica site (2013, 2 investigations), where remains of at least 53 persons were exhumed in 2014. The OMP makes sustained efforts in addressing the issue of possible misidentifications made in the past, provided that the right to privacy of the families of victims of enforced disappearances are fully respected and that the DNA data is protected with the utmost care. Signing of the Agreement on continuation of cooperation in the process of exhumations and identifications of persons missing as a result of conflicts in the Autonomous Province of Kosovo and Metohija between the OMP and the International Commission for Missing Persons ensured conditions for identification of remains exhumed on the Rudnica site, the municipality of Raška. So far, remains of 54 persons have been identified on this location. The efficiency of war crimes trials is ensured *inter alia* by continuity in the membership of judicial chambers and consistent application of Articles 10 and 10a of the Law on Organization and Competences of Government Authorities in War Crimes Proceedings. Namely, in the Department for War Crimes of the Court of Appeal of Belgrade six judges have been appointed for the period of six years, while cases pursuant to appeals against first-instance decisions of the Department for War Crimes of the Higher Court of Belgrade are adjudicated by a chamber of five judges, which ensures continuity of work, since six judges have been appointed in total. In view of the foregoing, taking into account the number of appointed judges and their term in office, normal functioning of the Department for War Crimes of the Court	

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		of Appeal of Belgrade as the second-instance court in war crime cases has been ensured. The published annual sitting schedule of judges at the Higher Court of Belgrade in 2018 have consistently implemented the provisions of Articles 10 and 10a of the Law on Organization and Competences of Government Authorities in War Crimes Proceedings. In addition, RSD 35 million was allocated in 2017 for procurements and purchasing and adequate audio and video recording system for courtrooms of the Special Department of the Higher Court of Belgrade. Предузете мере/тренутна ситуација As regards improvement and systematization of vetting measures in recruitment and appointment of State officials, the Bylaw on Internal Job Announcements for Employees of the Ministry of Interior (*Official Gazette of RS* No. 73/2016) is applied, which provides for the selection procedure, the work of competition committees, the manner of evaluation and ranking of candidates, as well as the Bylaw on Competences for Employees in the Ministry of Internal Affairs (*Official Gazette of RS* No. 52/2016), passed on the basis of the Law on Police (*Official Gazette of RS* No. 6/16). Such selection procedure ensures avoiding of recruitment in the Service of those candidates who were in any manner whatsoever in contact with persons, units and/or locations linked to commitment of war crimes in the territory of former Yugoslavia, as well as candidates who do not comply with the criteria for education, relevant work experience necessary for these jobs and required knowledge and skills. With the aim of providing timely information to the public and raising awareness of the issue of missing persons in the country and in the region, the OMP posted the basic version of its website at: www.kznl.gov.rs . The website of the OMP has been posted to ensure proactive communication in order to achieve full transparency, availability and openness for cooperation with interested parties. The new website offers	

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		improvements in terms of design and layout of the content, a new visual identity, well laid out structure and a platform for presentation and promotion of activities of the OMP. By implementing the Action Plan on Protection of National Minorities the Republic of Serbia undertakes numerous measures for prevention of spread of hate speech through the media and social networks, *inter alia* by means of increased number of media reports condemning hate speech. Independent analyses/studies confirm there have been less cases of spread of hate speech through the media and social networks. In addition, an analysis is also being prepared which includes comparative law analysis of education models in languages of national minorities in the EU, an analysis of the current situation in the Republic of Serbia and recommendations for introduction of new models. Other Serbian Commission for missing persons regularly meets with representatives of families of missing persons and updates them on the progress.	
109. Provide greater institutional and financial support to families and associations of families of victims of enforced disappearance	See paragraph 58 of the report.	Government The OMP also cooperates with associations of families of missing persons, through which it implements a part of its activities and provides them financial assistance and other forms of support. Several meetings have been held with representatives of the associations of families of missing persons in armed conflicts in the territory of the former SFRY and events in the Autonomous Province of Kosovo and Metohija, so that they could obtain information and apply for a public call with their own projects, to secure financing for specific activities. Government: additional information Criminal processing is a key instrument in exercising of the rights of the injured parties. For this reason, the rights of the	The WGEID notes that financial support to families appears to be limited and that institutional support should be expanded.

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		injured parties must be an integral part of the process of formulating and implementing an investigation plan in each particular case. In order to improve the position of victims in war crimes proceedings, the Office of the War Crimes Prosecutor cooperates with victims' associations. Victims' associations play an important role in the communication between the Office of the War Crimes Prosecutor and the injured parties. Participation of prosecutors at gatherings organized by victims' associations provides an opportunity to present the work of the Office of the War Crimes Prosecutor and to encourage the victims to testify. On the other hand, direct contact with the victims provides the Prosecutor with the opportunity to find out which doubts and problems do the victims face, i.e. to identify the deficiencies in terms of information, support and protection system of victims and witnesses. With regard to institutional support to victims and witnesses, the Office of the War Crimes Prosecutor implements the relevant by-laws and applies the standards in accordance with Directive 2012/29/EU. On 3 April 2017, the Information and Support Service for Victims and Witnesses (SIP) was established within the Office of the War Crimes Prosecutor, in accordance with the general mandatory instruction of the Republic Public Prosecutor. In order to provide timely information to interested parties and organizations, a notice on the establishment and operation of SIP, its members with contact information, information for witnesses and injured parties, as well as the brochure of the Republic Public Prosecutor's Office, are published on the official website of the Office of the War Crimes Prosecutor. Information on the work of the Service for Assistance and	

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		Support to Victims and Witnesses at the Office of the War Crimes Prosecutor, as of February 2018, is also available on the interactive map of services and institutions for providing assistance and support to victims of crimes in Serbia. Based on the results of the research of the Organization *Victim Support Europe* and the Victimology Society of Serbia, an interactive map was created that represents the address book of organizations, services and institutions that provide assistance and support to victims of crime in the Republic of Serbia. Employees at the Office of the War Crimes Prosecutor who continuously maintain contact with the victims attend general and specialist training in order to be able to deal with the victims in an impartial, considerate and expert manner. The trainings are conducted in accordance with Article 25 of the Directive 2012/29/EU and measure 3.7.1.19. from the Action Plan for Negotiation Chapter 23: Judiciary and Fundamental Rights, in the process of accession of the Republic of Serbia to the European Union. Humanitarian Law Center According to rough estimates, there are about 20,000 people living in Serbia who, as civilians, were either direct victims of war-related violence or lost an immediate family member who did not take part in hostilities. While it is not possible to estimate with accuracy the number of victims from other countries who are entitled to claim reparations from Serbia, it definitely exceeds 20,000. Victims who wish to claim reparation may do so either through judicial proceedings against the Republic of Serbia or under the Law on the Rights of Civilian Invalids of War. The Criminal Procedure Code provides for a third mechanism, which is available to injured parties in criminal proceedings – restitution claims – but this mechanism is not used in practice at all.	

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		To qualify for monthly cash benefits, victims must satisfy all three requirements prescribed by the law, namely financial insecurity, incapacity for work and a means test. To meet the financial insecurity requirement, victims are required not to have any income or receive any form of government assistance. By imposing these additional conditions relating to the financial situation of victims and their families, the legislators have in effect negated the reparative nature of one of the key rights that civilian war victims acquire after having their status recognized, and have reduced it to a mere social welfare benefit. Victims of crimes committed by members of Serbian authorities have no other option but to launch a civil case for compensation against the Serbian state, where the burden of proof for the establishment of the crime in court is unfairly placed on them as plaintiffs. In some cases, courts have refused to take into account the evidence of the state's liability for the harm suffered. This evidence is often questioned, mistrusted, and its validity and authenticity challenged by the courts. By contrast, witnesses and evidence put forward by the proxies of the state are given unreserved credence. Other Financial support to the associations of families of missing persons is symbolic (covers the rental of premises and few running costs) and is not necessarily regularly provided. Support needs to be improved. Institutional support is very weak if existent at all.	
110. Promulgate a law on access to information and a proper legislative framework on archives, so as to guarantee full access to all information that could potentially lead to clarification in cases of	See paragraph 37 of the report.	Humanitarian Law Center The relevant Serbian legal framework governing the right of public access to the archives pertaining to the crimes of the 1990s comprises three laws: the Law on Free Access to Information of Public Importance, the Data Secrecy Law and the Law on Personal Data Protection. Generally speaking,	The WGEID notes that a new law on access to information is in preparation and hopes that it will properly address the issue of access to archives and to information that could potentially lead to clarification in cases of missing persons.

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missing persons.		these laws provide a solid normative framework for public access to information. In practice, however, their effectiveness is substantially weakened because of discretionary interpretations of some of its provisions by the relevant public authorities and the absence of an efficient mechanism for the enforcement of its provisions. Over the last few years, the Ministry of Defence (MoD) and the Ministry of the Interior (MoI) have been unlawfully obstructing access to information of public importance essential for shedding light on past events, including the facts relating to crimes and enforced disappearances. As a rule, these two institutions deny access to the information and documents requested by the HLC, especially where the documents concern crimes regarding which there are strong indications that they were committed by police or army officers. In their attempt to keep these documents out of public view, the MoI and MoD use a variety of arguments and procedures which often run contrary to the relevant laws. The MoI has refused most of the HLC's requests, using the unpersuasive rationale that it does not hold the information requested. The MoD, for its part, refuses the requests by invoking data secrecy or personal data provisions. This MoD practice is based upon its arbitrary interpretations of the relevant provisions, and involves non-compliance with the decisions of the Commissioner for Information of Public Importance and Personal Data Protection ordering the MoD to disclose documents and information of public importance The HLC believes that changes in the legislative framework alone would not facilitate the exercise of the right to the truth and contribute to reducing impunity. The current practice of the relevant institutions, and the absence of procedures for checking the wartime backgrounds of their personnel, bear this out The MoD and MoI would do anything, even blatantly violate the law, to shield their members from criminal accountability. Furthermore, some individuals with tainted	

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		backgrounds who face the prospect of being prosecuted for war crimes still work for government agencies. Therefore, the HLC recommends that a special mechanism be put in place to enable access to those archives held by state authorities that contain records on crimes committed during the wars in the former Yugoslavia. This mechanism should be established with strong and genuine political support, and taking into account all the specificities and delicate elements of the process. With this in mind, and in the interest of the victims' families and society as a whole and their right to know the truth, the HLC calls on the National Assembly, the Prime Minister and the President of the Republic to declassify, under Article 26 of the Data Secrecy Law, all documents held by the MoI and MoD relating to the involvement of members of these two institutions in the armed conflicts in the former Yugoslavia. Other New law on access of information is in preparation. According to ICRC, the establishment of an inter-ministerial working group has been set in motion, to look into archives.	
111. Examine without undue delay all locations of potential mass graves	See paragraphs 19, 20, 33, 35 and 39 of the report.	Government The OMP handles responsibly any piece of information which indicates the existence of mass graves and without delay, transparently examines all potential mass graves in the central part of the territory of the Republic of Serbia. As ordered by the Office of the War Crimes Prosecutor on 9 November 2015, activities have been initiated on the Kiževak mine site, the municipality of Raška, in order to determine the site of possible mass graves reported by the Pristina side. Works on this location have been suspended several times because of bad weather conditions and lack of financial funds. The location has been closed on 20 June 2017 until more precise information is obtained on the exact place of burial. Works on this location have lasted a total of 148	The WGEID notes that the Commission on Missing Persons of the Government of Serbia has acted quite promptly when it has received information on potential mass graves in the past. It also notes that on 19 and 20 June and 6 August 2018, activities were being continued on the Kiževak mine site, the municipality of Raška, in order to determinate the site of possible mass graves. It appreciates the information according to which the Office of the War Crimes Prosecutor has conducted and is conducting several proceedings in connection with the remains of those killed during the events in Kosovo, which are

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		working days; during this period, 130,000m³ of solid mass has been excavated (soil, stone etc.) and about EUR 100,000 from budget funds of the Republic of Serbia and about EUR 162,000 from donor funds have been spent (Embassy of the Swiss Confederation, U.K. Embassy and Embassy of Finland). As ordered by the Office of the War Crimes Prosecutor of the Republic of Serbia, representatives of the War Crime Investigation Service of the Serbian Ministry of Internal Affairs were present at exhumations on four locations to verify information that remains of Kosovo Albanians are located there, including: 1. Kiževak (2015-2017, 4 investigations); 2. Kozarevo (2015, 1 investigation); 3. Petrovo Selo (2014, 2 investigations); 4. Batajnica (2014, 2 investigations). No human remains were found on these locations. In addition, as ordered by the Office of the War Crimes Prosecutor, representatives of the Service were present at exhumation on the Rudnica site (2013, 2 investigations), where remains of at least 53 persons were exhumed in 2014. Government: additional information In accordance with the obligation envisaged by the Action Plan for Negotiation Chapter 23: Judiciary and Fundamental Rights and the National War Crimes Prosecution Strategy, the Office of the War Crimes Prosecutor has adopted and applies the Prosecutorial Strategy for the Investigation and Prosecution of War Crimes in the Republic of Serbia 2018-2023. The Prosecutorial Strategy defines two closely related and, to a large extent, interdependent goals: professional, responsible and efficient conducting of investigations in order to discover the sites where the remains of persons killed in armed conflicts in the former SFRY are located and prosecution of responsible persons. The Office of the War Crimes Prosecutor has conducted and	found on the territory of the Republic of Serbia.

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		is conducting several proceedings in connection with the remains of those killed during the armed conflict in the territory of the Autonomous Province of Kosovo and Metohija, which are found on the territory of the Republic of Serbia. - for 48 persons whose remains have been found in Batajnica, the criminal proceedings for the events of 26 March 1999 in Suva Reka have been validly terminated; - for 38 persons whose remains have been found in Batajnica, the criminal charges for the events of 1 April 1999 in the village of Ljubenić have been filed; - for 20 persons whose remains have been found in Batajnica, the Office of the War Crimes Prosecutor conducts the proceedings for the events of 27 March 1999 in Padalište; - for 110 persons whose remains have been found in Batajnica, the Office of the War Crimes Prosecutor is conducting proceedings for the events of 26 March 1999 in the villages of Mala and Velika Kruša; - for three persons whose remains have been found in Batajnica, the Office of the War Crimes Prosecutor is conducting proceedings for the events of 26 March 1999 in the town of Landovica; - for 53 persons whose remains have been found in Batajnica, the Office of the War Crimes Prosecutor is conducting proceedings for the events of 25 March 1999 in Bela Crkva; - for 86 persons whose remains have been found in Batajnica, the Office of the War Crimes Prosecutor	

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		is conducting proceedings for the events of 28 March 1999 in Izbica; - for 313 persons whose remains have been found in Batajnica, the Office of the War Crimes Prosecutor is conducting proceedings for the events of 27 and 28 April 1999 in Meja; - for 57 persons whose remains have been found in Batajnica, the Office of the War Crimes Prosecutor is conducting proceedings for the events of 5 April 1999 in Rezala and Čitakovo; - for the murder of Bytyqi brothers in July 1999, whose remains have been found in Petrovo Selo, the Office of the War Crimes Prosecutor is conducting a new investigation. In accordance with the above, the Office of the War Crimes Prosecutor has so far covered at least 731 persons whose remains have been found on the territory of the Republic of Serbia. Since its establishment on 14 August 2018, the Office of the War Crimes Prosecutor has filed an indictment against 202 persons,while the indictments cover events with thousands of victims. As ordered by the Office of the War Crimes Prosecutor, on 19 and 20 June and 6 August 2018, activities are being continued on the Kiževak mine site, the municipality of Raška, in order to determinate the site of possible mass graves. Two members of the War Crime Investigation Service were present at this location during these activities. Humanitarian Law Center The most recent discovery of the existence of a mass grave occurred in December 2013 in Rudnica. It was a result of the	

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		work of the Kosovo institutions, which informed the institutions in Serbia, who on their part had a technical role in determining the micro-location of the grave and digging for it. In the period 2014-2018 there have been no discoveries, exhumations or identifications of missing persons on the territory of Serbia. According to Serbia's reply to the list of issues, investigation was carried out on the location of Kiževak near Raška, and was then allegedly discontinued due to bad weather and lack of funds, but recommenced in December 2016. The HLC believes that the inefficiency in achieving any results in the three-years' period demonstrates that insufficient funds are being allocated from the state budget for this purpose. A worrying fact is that the funds for exhumations were secured from donations and not allocated from the state's budget. Other Serbian authorities proceed without delay, upon receiving information/request, to examine such locations.	
112. Address the possible misidentifications made in the past, provided that the right to privacy of the families of victims of enforced disappearances are fully respected and that the DNA data is protected with the utmost care. A review process should be initiated to remove obstacles of the ongoing identification work.	See paragraph 40 of the report.	Government The OMP makes sustained efforts in addressing the issue of possible misidentifications made in the past, provided that the right to privacy of the families of victims of enforced disappearances are fully respected and that the DNA data is protected with the utmost care. Signing of the Agreement on continuation of cooperation in the process of exhumations and identifications of persons missing as a result of conflicts in the Autonomous Province of Kosovo and Metohija between the OMP and the International Commission for Missing Persons ensured conditions for identification of remains exhumed on the Rudnica site, the municipality of	The WGEID notes the efforts made by the Commission on Missing Persons of the Government of Serbia to address the past misidentifications, while noting that this is an issue that needs to be tackled at regional level.

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		Raška. So far, remains of 54 persons have been identified on this location. Government: additional information According to the International Commission on Missing Persons (ICMP), there are approximately 450 mortal remains buried in city cemeteries in Serbia. We would like to point out that the data has been stated in the context of erroneous identifications and exhumations of unidentified mortal remains found in the morgues in the region. The Commission on Missing Persons of the Government of the Republic of Serbia draws the attention to the fact that bone samples of all 450 N.N. buried bodies in city cemeteries in Serbia (these are mortal remains that have drifted down the river flows from the war affected areas of the Republic of Croatia and BiH to the territory of the Republic of Serbia) have been taken for DNA analysis and that DNA profiles were extracted from them. Also, out of the total number of 450 bodies, 256 bodies have been identified and handed over to interested parties or families in the Republic of Serbia through this process, with the support of ICMP, up to now. At the moment, there are mortal remains of 196 N.N. persons in city cemeteries in the Republic of Serbia, and this number should be indicated in the table of the Working Group on Enforced or Involuntary Disappearances. Humanitarian Law Center This is a very sensitive question, that requires regional cooperation and a joint procedure and strategy involving a sensitive approach to a victim's families by all the sides involved in a process. ICMP The interrelated issue of NN (no name) cases and misidentifications dating from before ICMP's introduction of	

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		a DNA-led process in 2001 is a major regional impediment to identifying missing persons. There are more than 3,000 NN cases stored in mortuaries in BIH; around 900 in Croatia, 400 in Kosovo, and approximately 450 NN cases buried in municipal plots in Serbia. ICMP has obtained DNA profiles from the NN cases in BIH and Kosovo; however, these do not match any of the thousands of sets of genetic references collected from families who are still searching for their missing relatives. Croatia reports that it has made efforts to identify its NN cases, but without success. The unresolved status of NN cases contributes to suspicions between states, and this exacerbates tensions in the region and undermines regional cooperation to address the very issue of missing persons from the conflicts in the former Yugoslavia. Where identifications are carried out using traditional methods, misidentifications may take place, despite the authorities' best efforts. It is especially difficult to achieve accurate results by traditional methods when applied to large numbers of mortal remains recovered long after death in complex commingled sites. Misidentifications have a compound effect on efforts to account for all the missing. When a body is misidentified, the family that has incorrectly received the body in many instances will not have provided family DNA reference samples. Therefore, the actual mortal remains of their family member, if located, will remain unidentified. And the family whose missing relative's remains were misidentified and released incorrectly to another family will not resolve their case even if they have provided DNA reference samples since their relative is buried under someone else's name. A higher proportion of misidentifications may contribute to an increased number of unidentified mortal remains in mortuaries. Other	

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		Serbian commission for missing persons has been advocating the tackling of the issue of past misidentifications at regional level. Serbia supported the latest ICMP's initiative and their pilot project in BiH.	
113. Expedite the process of war crimes prosecutions.	See paragraphs 42 and 43, 46, and 47 of the report.	Government The efficiency of war crimes trials is ensured *inter alia* by continuity in the membership of judicial chambers and consistent application of Articles 10 and 10a of the Law on Organization and Competences of Government Authorities in War Crimes Proceedings. Namely, in the Department for War Crimes of the Court of Appeal of Belgrade six judges have been appointed for the period of six years, while cases pursuant to appeals against first-instance decisions of the Department for War Crimes of the Higher Court of Belgrade are adjudicated by a chamber of five judges, which ensures continuity of work, since six judges have been appointed in total. In view of the foregoing, taking into account the number of appointed judges and their term in office, normal functioning of the Department for War Crimes of the Court of Appeal of Belgrade as the second-instance court in war crime cases has been ensured. The published annual sitting schedule of judges at the Higher Court of Belgrade in 2018 have consistently implemented the provisions of Articles 10 and 10a of the Law on Organization and Competences of Government Authorities in War Crimes Proceedings. In addition, RSD 35 million was allocated in 2017 for procurements and purchasing and adequate audio and video recording system for courtrooms of the Special Department of the Higher Court of Belgrade. Government: additional information The Office of the War Crimes Prosecutor, independently or with the support of the competent state authorities and institutions, the Republic Public Prosecutor's Office and the line ministry, undertakes a series of measures and activities	The WGEID notes the additional funding allocated for an audio and video recording system for courtrooms of the Special Department of the Higher Court of Belgrade and the appointment of new judges, a new prosecutor and a new prosecutorial strategy for the Investigation and Prosecution of War Crimes in the Republic of Serbia 2018-2023. It notes, however, that war crimes proceedings continue to be rather slow with few convictions and shares the recommendations formulated by the Committee on enforced disappearances to the Serbian Government in 2015 to ensure that all cases of enforced disappearance that may have been committed by agents of the State or by persons or groups of persons acting with their authorization, support or acquiescence in the context of past armed conflicts are investigated thoroughly and impartially without delay (see CED/C/SRB/CO/1, para. 14).

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		aimed at increasing the efficiency of war crimes prosecution. In accordance with the prerequisites and principles foreseen by the Action Plan for the Negotiation Chapter 23, a draft text of the Prosecutorial Strategy for the Investigation and Prosecution of War Crimes in the Republic of Serbia 2018-2023 was drafted. This document defines specific measures and activities that need to be undertaken in order to increase the efficiency and quality of the work of the Office of the War Crimes Prosecutor, with principal bodies for these activities and persons responsible for overseeing their implementation being designated. The Draft document was presented at an expert meeting held on 12 March 2018. The work of the expert meeting was attended by judges, prosecutors, lawyers, and officials of: the Service for Discovering War Crimes, the Protection Unit, the Military Security Agency, the Security Information Agency, the Ministry of Justice, the Ministry of European Integration, the Commission on Missing Persons, the Office for Human and Minority Rights, the Judicial Academy, the OSCE Mission to Serbia, the Humanitarian Law Center and the *Belgrade Centre for Human Rights.* Submitted suggestions made after the meeting have been, along with the Opinion and Suggestions of the International Residual Mechanism for Criminal Tribunals, taken into account when defining the final text of the document, which has been adopted at the board of the Office of the War Crimes Prosecutor on 4 April 2018. In terms of strengthening the administrative and technical capacities, the National Assembly has elected a new War Crimes Prosecutor on 15 May 2017, who took office on 31 May 2017. One Deputy War Crimes Prosecutor has been elected by the National Assembly on 22 March 2018. The State Prosecutorial Council has announced the appointment	

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		of three Deputy War Crimes Prosecutors on 15 June 2018, while the procedure for the election of two other Deputy War Crimes Prosecutors is ongoing, based on the State Prosecutorial Council's competition announced on 22 September 2017. In accordance with the obligation set forth in item 1.4.4.4 of the Action Plan for Negotiation Chapter 23, the employment of psychologists in the Office of the War Crimes Prosecutor, which shall provide support to victims and witnesses, is envisaged. Humanitarian Law Center Unwarranted delays, which continued in 2017, have become the hallmark of war crimes cases in Serbia. It is certain that they have had a negative impact on efforts to establish the rule of law and end the culture of impunity for those responsible for the grave crimes committed in the 1990s. It was found that the courts also contributed to delays during the reporting period, mainly owing to the absence of witnesses or alleged health problems of the accused. There have been only 95 trial days for all war crimes cases since the adoption of the National Strategy, with 70 trial days having been postponed for all sorts of reasons. Hearings are scheduled with, on average, more than 40 days between them. As there have been 25 ongoing cases, the average number of trial days held per case has been just three. The most striking example of excessively and unjustifiably long proceedings is the *Ovčara* Case, in which, four years after the final judgment was rendered, and 10 years after the indictment was issued, the judgment has been quashed and the case remanded to the War Crimes Department of the Court of Appeal for reconsideration on appeal. The case was finally closed at the end of 2017, 14 years after the first indictment.	

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		In September 2017, the HLC objected on behalf of the victims to the excessive length of proceedings in the *Trnje* Case, requesting that the process be expedited. The indictment in this case was issued in November 2013, with only nine out of 21 scheduled main hearings having been held before the objection was filed. Other New prosecutor appointed, new prosecutorial strategy adopted; however without clear reference to prioritising cases; capacity is an issues as appointments of new deputies are delayed.	
114. Initiate a vetting process to identify all government officials who were allegedly involved in the commission of war crimes. Improve and systematize vetting measures in the recruitment and appointment of State officials.	See paragraphs 44 and 45 of the report.	Government As regards improvement and systematization of vetting measures in recruitment and appointment of State officials, the Bylaw on Internal Job Announcements for Employees of the Ministry of Interior (*Official Gazette of RS* No. 73/2016) is applied, which provides for the selection procedure, the work of competition committees, the manner of evaluation and ranking of candidates, as well as the Bylaw on Competences for Employees in the Ministry of Internal Affairs (*Official Gazette of RS* No. 52/2016), passed on the basis of the Law on Police (*Official Gazette of RS* No. 6/16). Such selection procedure ensures avoiding of recruitment in the Service of those candidates who were in any manner whatsoever in contact with persons, units and/or locations linked to commitment of war crimes in the territory of former Yugoslavia, as well as candidates who do not comply with the criteria for education, relevant work experience necessary for these jobs and required knowledge and skills. Humanitarian Law Center The second report on implementation of the Action Plan for Chapter 23 in 2017 states that rules preventing hiring ex-combatants at the WCIS have been adopted. The report also	While there are bylaws adopted in 2016 that would allow avoiding the recruitment in public services of individuals involved in the armed conflict, in practice cases of individuals still holding public positions are still reported.

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		states that none of the persons currently working for the WCIS participated in the armed conflicts in the former Yugoslavia. However, by looking at the rulebooks, it cannot be concluded that the prescribed procedures for selecting new candidates can really prevent hiring those candidates who have participated in the armed conflicts. Namely, the rulebooks' provisions prescribe how vacancies are to be announced internally, the application process, the selection process, verification and evaluation of candidates etc., but do not envisage mandatory checks into candidates' wartime backgrounds. The rulebooks should contain a provision expressly forbidding the hiring of participants in war operations and establish the procedure by which to achieve this goal. Other It is not the case in Serbia. In contrast, there are cases of glorifications of convicted war criminals, one of whom was appointed as a guest lecturer at the State Military Academy (Lazarevic). One (Sljivancanin) was appearing as a guest speaker at electoral rallies of the ruling SNS party, and was holding public presentations of his book. A MICT convicted war criminal Vojislav Seselj continues as a member of Serbian Parliament.	
115. Conduct effective negotiations and reach an agreement on war crime cases with the authorities of Kosovo in order to establish an operational protocol on cooperation in the investigation and prosecution of war crimes.	See paragraphs 52, 53 and 55 of the report.	Humanitarian Law Center After the HLC had urged the OWCP to take action with respect to its complaints regarding the crimes in Kosovo, the OWCP replied that they are de facto unable to investigate these crimes because they cannot undertake any evidentiary actions in Kosovo. The EULEX mission, which previously facilitated judicial cooperation between Serbia and Kosovo, since May 2014 EULEX no longer has the mandate to undertake	The WGEID reiterates this recommendation and regrets that cooperation with the Kosovo authorities on war crimes cases is currently non-existent.

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		investigations, as investigations were transferred to the competence of local prosecutors. Local prosecutors refuse to cooperate with the OWCP. In the HLC's view, the vacuum that has been created by the EULEX Mission's gradual withdrawal from Kosovo should be addressed as a matter of priority in the Serbia-Kosovo talks in Brussels, in order to facilitate judicial cooperation between the two countries in the prosecution of war crimes. In 2017, OWCP did not have a cooperation with the Kosovo authorities. Other No such protocol was concluded.	
116. Ensure media freedom and use the mass media to raise awareness of the issue of missing persons in the region.	See paragraph 41 of the report.	Government With the aim of providing timely information to the public and raising awareness of the issue of missing persons in the country and in the region, the OMP posted the basic version of its website at: www.kznl.gov.rs . The website of the OMP has been posted to ensure proactive communication in order to achieve full transparency, availability and openness for cooperation with interested parties. The new website offers improvements in terms of design and layout of the content, a new visual identity, well laid out structure and a platform for presentation and promotion of activities of the OMP. Humanitarian Law Center Information concerning war crimes trials in Serbia rarely finds a way of attracting the public eye. Overall lack of interest in the subject by media outlets, and the absence of a systematic approach to informing the public about these cases, are just a few of the reasons for such a situation. The fact that the Department of War Crimes of the Higher Court in Belgrade, which handles war crimes cases at first instance which could be interesting for the public, imposes stringent	While the WGEID notes the efforts of the Commission on Missing Persons of the Government of Serbia to raise awareness about its work, it notes that there seems to be no systematic approach to inform the general public about the issue of missing persons and little interest in the media thereon.

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		restrictions with regard to public attendance at trials and public access to court documents, contributes to this situation. Other Serbian media are not at all sensitised to the issue of the missing persons.	
117. Pay equal attention to all victims, regardless of their nationality, in respect of memorials. This principle should be integrated into future activities related to this element of reparation.	See paragraph 58 of the report.	Humanitarian Law Center Numerous legal and institutional barriers seriously hinder access to material reparations for victims of war crimes and other human rights violations committed during the 1990s. Since the fall of Milošević's regime, Serbian institutions, except with the 2012 "Programme for the return of refugees and displaced Bosniaks from the municipality of Priboj in the period 1991-1999", have made little effort to provide reparations to victims in accordance with international standards. As regards symbolic reparations, ethnically biased commemorations of events from the 1990s prevail, as well as denial of crimes and absence of efforts to build and nurture a culture of remembrance for the victims. Other No information available.	The WGEID reiterates its previous recommendation formulated after the visit.
118. Develop educational materials that promote pluralism, and teach history objectively in order to combat ethnic polarization and ethnic discrimination.		Government By implementing the Action Plan on Protection of National Minorities the Republic of Serbia undertakes numerous measures for prevention of spread of hate speech through the media and social networks, *inter alia* by means of increased number of media reports condemning hate speech. Independent analyses/studies confirm there have been less cases of spread of hate speech through the media and social networks. In addition, an analysis is also being prepared which includes comparative law analysis of education models in languages of national minorities in the EU, an analysis of	The WGEID notes that the Action Plan on the Protection of National Minorities in the Republic of Serbia aims at preventing hate speech, including through the media and social networks. It regrets though that educational materials addressing recent history does not seem to aim at addressing ethnic polarization and promoting pluralism.

Recommendations (A/HRC/30/38/Add.2)	*Situation during the visit (A/HRC/30/38/Add.2)*	*Measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		the current situation in the Republic of Serbia and recommendations for introduction of new models. Government: additional information From 2014 till today teachers in pre-university education passed different training programs related to war crimes including wars in the Balkans in the last decade of the 20th century, such as program which was organized by the Tribunal in the Hague. In the process of teaching and learning teachers use textbooks and additional teaching materials, esspecilly materials developed under Center for Democracy and Reconciliation of Southeast Europe (CDRSEE). These materials are available at the address http://cdrsee.org/publications/education. Teaching and learning history in pre-university and university education is based on a multiperspectivity approach. Humanitarian Law Center The period of armed conflicts in the former Yugoslavia is addressed in history teaching materials for the eighth grade of primary school and the senior year of secondary school. The contents of textbooks differ significantly from the judicial truth concerning past crimes and the character of the conflicts. The events which occurred during the armed conflicts are depicted briefly, and in a selective and biased manner, with an insistence primarily on the sufferings of the Serbian people. While themes pertaining to the field of transitional justice are included, albeit marginally, in the formal teaching programmes of higher education institutions, they are altogether absent from teaching materials intended for secondary and primary school students. Education for young	

Recommendations *(A/HRC/30/38/Add.2)*	*Situation during the visit* *(A/HRC/30/38/Add.2)*	*Measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		people about transitional justice mechanisms and the facts concerning war crimes in the former Yugoslavia that have been established through judicial proceedings, is primarily carried out by non-governmental organizations. Transitional justice has not yet been introduced into university curricula as an independent course or module. Some of its mechanisms have been taught as part of some modules or as a topic of some courses. The Faculty of Political Sciences in Belgrade continues to offer a master's module on International Humanitarian Law and Human Rights Law, which includes courses in victim protection and the rules of war. Other Not done.	

VI. Kosovo

55. On 15 December 2017, the Working Group on Enforced or Involuntary Disappearances requested the Kosovo authorities, through UNMIK, to provide information on measures taken to implement the recommendations that were made in the report A/HRC/30/38/Add.1 (paras. 86-97, 119-136, 144 and 146), after its visit in June 2014. On 20 July 2018, the Working Group sent the below table for comments to the Kosovo authorities, through UNMIK. The Working Group inquired with UNMIK whether any feedback was received from the Kosovo authorities on 13 March 2018, 10 April 2018, 26 June 2018 and 17 August 2018. No information was provided by the Kosovo authorities.

56. The Working Group regrets that the Kosovo authorities have not cooperated throughout the process of the follow-up report. It appreciates the replies received from UNMIK and EULEX.

Recommendations to authorities in Kosovo

The Working Group:

57. Notes the creation of the Analysis Team (AT), established in September 2016, to exchange and analyse available information among the Pristina and Belgrade delegations, EULEX, and the ICRC and hopes that it will help addressing the lack of new information.

58. Notes that some efforts were displayed in the context of the activities of the Working Group on Missing Persons (WG), which took the initiative to establish an Analysis Team (AT) to analyse all available information on specific cases or sites, with exclusive aim of solving more missing persons' cases.

59. Appreciates the information that the authorities have established two informal working groups in an attempt to unlock the issue of missing persons. It regrets though that access to archives and disclosure of relevant information on cases of enforced disappearance remain problematic.

60. Regrets that over the past two years the process of exchange of information with a view to clarifying the fate of the missing persons has practically stopped. It reiterates the recommendation formulated after the visit to immediately open archives relevant to cases of enforced disappearances that took place during and immediately after the 1998-1999 events in Kosovo, in order to facilitate the localization of undiscovered gravesites and to speed up the search.

61. Appreciates that the Governmental Commission on Missing Persons has two representatives of family associations regularly attending its meetings.

62. Appreciates that local authorities are displaying efforts in addressing the issue of missing persons and have developed a workplan in this regard. However, the results are limited due to lack of coordination among the concerned entities and scarce political will.

63. Reiterates the recommendation formulated at the end of its visit to establish an agreement on war crime cases with the Serbian authorities in order to establish an operational protocol on cooperation in the investigation and prosecution of war crimes. It regrets that cooperation with the Serbian authorities on war crimes cases is currently non-existent.

64. Reiterates the recommendation formulated at the end of its visit to conclude cooperation agreements with other international mechanisms involved in the investigation and prosecution of war crimes in order to facilitate technical cooperation, such as acquiring evidence, statements and documents related to the conflict in Kosovo.

65. Reiterates the recommendation formulated at the end of its visit to seek technical assistance from international bodies operating on the ground to conduct institutional reforms aimed at establishing an independent and efficient judicial system.

66. Reiterates the recommendation formulated after the visit to adopt a law on the use in Kosovo of evidence collected by the International Tribunal for the Former Yugoslavia in order to ensure that evidence gathered by the Tribunal will continue to be admissible after the transfer of the mandate to local courts and prosecutors, respecting confidentiality rules.

67. Reiterates the recommendation formulated after the visit to put in place a strong vetting process to ensure that alleged perpetrators are not appointed to positions of authority.

68. Notes that Kosovo authorities with the help of the EU have developed a witness protection programme in line with EU and international standards. The WGEID would appreciate receiving more information on the program and its implementation.

69. Notes that the authorities established a Task Force to amend the legal framework on missing persons, including to bring about adequate and effective reparation for victims. However, it also notes that non-Albanian victims encounter more difficulties to effectively benefit from redress.

70. Regrets the information that there was no progress in relation to the adoption of a gender-sensitive approach when designing and implementing reparation programmes, and reiterates the recommendation formulated after the visit.

71. Notes that a joint commemoration among victims of different ethnic background was organized in 2017 on the occasion of the International Day of the Disappeared, though it was a civil society rather than institutional activity.

72. Appreciates the appointment of the Deputy Head of the "Government Commission on Missing Persons" belonging to non-majority community.

73. Notes that there is no systematic approach to inform the general public about the issue of missing persons and coverage of the topic appears to be unsatisfactory. It reiterates the recommendation formulated after the visit to develop educational materials that promote pluralism, and teach history objectively in order to combat ethnic polarization and ethnic discrimination.

Recommendations to international bodies

The Working Group:

74. Welcomes the efforts by the international bodies to address this issue but notes the lack of results with respect to the recommendation formulated after the visit to all international bodies that hold relevant information regarding cases of enforced disappearances that took place during and immediately after the 1998-1999 events in Kosovo to open their archives and facilitate the search and investigation.

75. Appreciates UNMIK's engagement through the organization of a two-day conference on 29 and 30 June 2017 in Geneva on Missing Persons as a result of the events in Kosovo in 1998/1999, with the participation of authorities as well as families of missing persons from all communities, among others. The WGEID would appreciate receiving more information on the implementation of the commitments and engagements agreed by all participants during the event.

76. Welcomes UNMIK's support to the establishment in March 2017 of a Multi Ethnic Missing Persons Resource Centre (MPRC) in Pristina, bringing families of all communities together. The WGEID reiterates its recommendation that the Working Group on Missing Persons should meet more frequently and that more work should be done in-between the Working Group's meetings.

77. Welcomes the fact that the ICRC will continue chairing the Working Group on Missing Persons and that it recently launched a 5 years Road Map with the aim to, *inter alia*, increase human and financial resources for the research on the archives of international institutions such as the Mechanism for International Criminal Tribunals (MICT) with the main objective to find more information on the fate and whereabouts of missing persons.

78. Appreciates the initiative to establish a Trust Fund for the implementation of assistance projects, primarily in North Mitrovica, South Mitrovica and Leposavic, which will benefit the Roma, Ashkali and Egyptian communities, but reiterates the need for a general scheme to provide compensation for the victims of human rights abuses as identified by the Human Rights Advisory Panel.

79. Notes the efforts displayed by EULEX over the past 10 years to investigate and prosecute several war crimes cases. However, given the reported lack of political will for cooperation from both Serbia and Kosovo on requests for mutual legal assistance, the WGEID is concerned at the fact that, following changes to the EULEX mandate and as reflected also in Kosovo legislation, in 2014 the Mission started handing over criminal cases, including cases connected to the conflict, to Kosovo institutions.

80. Is concerned that the work of EULEX prosecutors continued to be hampered by the fact that witnesses are often reluctant to stand by their own statements given in the investigative stage, which emphasizes again the need for an effective and properly functioning witness protection program.

81. Appreciates that since the establishment of a dedicated war crimes department within the Kosovo Special Prosecution Office (SPRK) in August 2015, EULEX has continued to provide training to build the capacity of local counterparts including on war crimes and international criminal law.

Follow up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its visit to Kosovo** in June 2014 (A/HRC/30/38/Add.1, paragraphs 86-97 and 119-146)

Recommendations *(A/HRC/30/38/Add.1)*	*Situation during the visit* *(A/HRC/30/38/Add.1)*	*Observations: measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
A. Regional recommendations to Governments and authorities	See paragraph 8 of the report.	Missing Persons Resource Center Decisions made about actions regarding Missing Persons Issue have not been taken by relevant institutions.	The WGEID appreciates that local authorities are displaying efforts in addressing the issue of missing persons and have developed a workplan in this regard. However, the results are limited due to lack of coordination among the concerned entities and scarce political will. The WGEID recalls that concrete results on the issue of missing persons in the region can only be achieved through sincere and transparent cooperation among all concerned stakeholders and a depoliticization of the matter.
86. Act with due urgency and speed in the matter of enforced disappearances, as required by the Declaration on the Protection of All Persons from Enforced Disappearance and other international obligations.		Other Since 2004, Serbia and Kosovo have cooperated on the missing person issue through the ICRC-chaired "Working Group on persons who are unaccounted for in connection with events in Kosovo". The mechanism is however confronted with shortcomings linked particularly to discrepancies in terms of exchange of contributions and the level of representation of the delegations to the mechanism. The limited results until now stem from a lack of political will and not from the institutional set-up of the working group. At the local level, the new Government is demonstrating increased efforts in addressing the issue of Missing Persons. Recently, the authorities presented the first draft of the work plan. This work plan is an endeavour to streamline the issue of missing persons in a more structured manner and comes as a consequence of meetings with key local and international stakeholders involved directly on enlightening the fate and whereabouts of people still missing as a result of '99 conflict. The work plan consists of 5 five main pillars: 1. Support to families of missing persons; 2. Providing new information; 3. Intensification of regional cooperation; 4. Handling/ identification of mortal remains (NN cases); and 5.	

Recommendations (A/HRC/30/38/Add.1)	*Situation during the visit (A/HRC/30/38/Add.1)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		Strengthening institutional mechanisms. The current draft can serve as a good platform for further elaboration of the document in close cooperation with key international stakeholders, and the idea is to transform this draft in a two year Action Plan which should serve as a roadmap of local authorities in clarifying the fate of those still missing At the local level the main problems and challenges, include: Lack of information on new sites; and lack of coordination and cooperation.	
87. Disclose all information on mass graves and make that information accessible to all countries and authorities in the region.	See paragraphs 8, 15, 20, 33, 34, 35, 36 and 40 of the report.	Missing Persons Resource Center Not completed Other In the past 2 years the process of exchange of information with a view to clarifying the fate of the remaining missing persons has practically ground to a halt. The reasons are both political and operational and need to be overcome as soon as possible to unlock the process.	The WGEID regrets that the process of exchange of information at regional level is on a standstill for the last two years.
88. Ensure high-level commitment to clarifying the fate and whereabouts of all missing persons, bringing all perpetrators to justice and ensuring full reparation for all victims.	See paragraphs 9 and 11 of the report.	Missing Persons Resource Center The job has not been even started	See previous observations related to recommendations 86 and 87.
89. Reinvigorate efforts to establish a common regional list of the disappeared.	See paragraphs 11 and 23 of the report.	Missing Persons Resource Center Not completed ICMP The initiative to launch a Regional Database of Open Missing Persons Cases from the Armed Conflicts in	The Working Group welcomes the creation of the Regional Database of "Active Missing-Persons Cases from the Armed Conflicts in the Former Yugoslavia" with the support of the ICMP and the

Recommendations *(A/HRC/30/38/Add.1)*	*Situation during the visit* *(A/HRC/30/38/Add.1)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		the former Yugoslavia began several years ago under the aegis of ICMP with the aim of enhancing regional cooperation among countries of the Western Balkans through the transparent sharing of data on active missing persons cases. In June 2017, ICMP received a letter from the Kosovo Commission on Missing Persons and the BIH Missing Persons Institute stating that they would participate in the Regional Database project. By the end of November 2017 all participating countries (BIH, Croatia, Kosovo, Montenegro and Serbia) had provided their data on active missing persons cases to ICMP for inclusion in the Database. In December 2017 ICMP convened a regional meeting to present the Regional Database. The meeting brought together the Board of Directors of the Missing Persons Institute of Bosnia and Herzegovina, chairpersons of the commissions on missing persons from Kosovo, Montenegro, and Serbia, and the Assistant Minister in charge of the Directorate for Detainees and Missing Persons of Croatia. ICMP's regional partners in the Western Balkans expressed high praise for the Database and concluded that it will be an invaluable tool in their future work. Representatives of the national authorities responsible for accounting for missing persons also expressed their strong determination to work together with the aim of refining and filtering the data presently held in the Database, with the aim of establishing an authoritative and publicly-accessible list of active cases of missing persons from the region. To achieve this, representatives of the	participation and support of Croatia, Montenegro, Serbia and Kosovo. The WGEID encourages the authorities to continue collaborating with this project in order to establish a common regional list of the disappeared and looks forward to receiving more information on its implementation and the forthcoming results in the identification of victims and clarification of cases.

Recommendations *(A/HRC/30/38/Add.1)*	*Situation during the visit* *(A/HRC/30/38/Add.1)*	*Observations: measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		national authorities will engage in intensive bilateral and multilateral talks to remove duplicates and to work on resolving cases of joint interest in 2018-2019. While transparency tools have facilitated the sharing of ICMP's data and DNA results with multiple partners simultaneously in affected countries of the Western Balkans, until now there has been no mechanism by which countries could share their own data with others in a transparent manner and receive updates in real time. The decision by BIH, Croatia, Kosovo, Montenegro and Serbia to participate in the Database project is a major step forward in terms of strengthening regional cooperation to account for around 12,000 people who are still missing from the region. The Database contains, at a minimum, the missing person's first name, father's name, last name, date of birth, place of birth, date of disappearance, place of disappearance, municipality of disappearance, identification (if any, date), and countries in which the *disappearance has been registered.* ICMP ensures that the data is accessible and searchable by the competent authorities in Croatia, BIH, Kosovo, Montenegro and Serbia on the basis that these authorities reciprocally provide their data relevant to active missing persons cases for inclusion in the Database. In this way, the Database will enhance regional cooperation with a view to resolving missing persons cases from the conflicts in the former Yugoslavia. Other Exchange of letters between Kosovo authorities and	

Recommendations *(A/HRC/30/38/Add.1)*	*Situation during the visit* *(A/HRC/30/38/Add.1)*	*Observations: measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		ICMP was done in 11 Oct 2017. And Kosovo is part of the Regional List of Missing Persons which is administered by ICMP.	
90. Speed up the process of tracing missing persons through strengthened cooperation with institutions engaged in tracing disappeared persons in neighbouring countries, especially between prosecutors and judicial institutions. Such cooperation must include the exchange of relevant evidence.	See paragraph 8, 12 and 25 of the report.	Missing Persons Resource Center Unfortunately, this process has stagnated during last two years	See previous observation related to recommendation 87.
91. Everyone involved must support the search for missing persons by providing relevant information and documentation at the national and regional level.	See paragraphs 10 and 12 of the report.	Missing Persons Resource Center The job has not been done Other In effort of upscaling initiatives in addressing the issue of lack of new information, and the need to analyze the already available data, the Analysis Team (AT) was established in September 2016, to exchange and analyze available information among the Pristina and Belgrade delegations, EULEX, and the ICRC. The AT was endorsed by the WG and is functioning in the frame of Sub-Working Group on Forensic Issues.	The WGEID notes the creation of the Analysis Team (AT), established in September 2016, to exchange and analyse available information among the Pristina and Belgrade delegations, EULEX, and the ICRC and hopes that it will help addressing the lack of new information.
92. Continue the regional dialogue on missing persons and initiatives aimed at finding solutions to properly solve the issue.	See paragraphs 15, 16 and 38 of the report.	Missing Persons Resource Center Very rare meetings and no feedback on the meetings. Neither WG nor other relevant actors, even though we as a MPRC request feedback about any event.	See previous observation related to recommendation 87.

Recommendations *(A/HRC/30/38/Add.1)*	*Situation during the visit* *(A/HRC/30/38/Add.1)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		Other Kosovo is part of the Regional List of Missing Persons which is administered by ICMP.	
93. Implement fully the Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses, signed by Bosnia and Herzegovina, Croatia, Montenegro and Serbia.	See paragraph 15 of the report.	Missing Persons Resource Center Very little is being implemented ICMP On 29 August 2014 at a historic event hosted by ICMP, Chair of the Presidency of Bosnia and Herzegovina Bakir Izetbegović, President of the Republic of Croatia Ivo Josipović, President of Montenegro Filip Vujanović, and President of the Republic of Serbia Tomislav Nikolić signed the Declaration in Mostar, BIH. ICMP encourages Kosovo to also join the ICMP Declaration.	The WGEID notes that more efforts should be made to fully implement the "Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses", notably when it comes to its article 7 related to the prosecution of war crimes.
95. Offer more in-service training to judges and prosecutors on the Declaration on the Protection of All Persons from Enforced Disappearance and other international instruments.			
96. Immediately open archives that are relevant to cases of enforced disappearances in order to facilitate the localization of undiscovered gravesites and speed up the search for missing persons.	See paragraph 12 of the report.	Missing Persons Resource Center Archives are not being opened. For those that have been opened, no information share even though the families have asked for archives to be opened ASAP. Other The progress on the file remains limited, with only eight (8) cases solved during 2017, which underlines that the lack of new information on gravesites yet to be uncovered remains an obstacle for solving more	The WGEID regrets that access to archives and disclosure of relevant information on cases of enforced disappearance remain problematic.

Recommendations (A/HRC/30/38/Add.1)	*Situation during the visit (A/HRC/30/38/Add.1)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		cases. On this, Kosovo needs to engage more proactively and provide information from its own sources.	
97. The Government of Serbia and the authorities in Kosovo should actively contribute to the Working Group on Missing Persons, including with information on new gravesite locations.	See paragraphs 20 and 34 of the report.	Missing Persons Resource Center Very little has been done and even the job done is not correct. Families from both sides are very disappointed. Other Very little was done the reporting period. In fact the lack of new information remains the biggest obstacle to the process of clarifying the fate of missing persons.	The WGEID notes the contribution of the Belgrade delegation to the Working Group on Missing Persons, which have led to some, though limited, progress.
B. Recommendations to Kosovo 119. Intensify efforts in the search for missing persons and the identification of human remains that have been exhumed.	See paragraph 66 of the report.	Missing Persons Resource Center We are not informed with any intensity in the search, even though the families agree with recommendation that more job needs to be done. Other As of September 2016, in an effort to explore new avenues, the Working Group on Missing Persons (WG) took the initiative, to establish the Analysis Team (AT). The AT will carry the analysing/reviewing of all available information on specific cases or sites, with exclusive aim of solving more missing persons cases. The AT includes one nominally appointed member of the Belgrade and Pristina delegations respectively, EULEX and ICRC. At the first meetings of the AT held so far, the contribution and interaction of all members was considered as promising.	The WGEID notes that some efforts were displayed in the context of the activities of the Working Group on Missing Persons (WG), which took the initiative to establish an Analysis Team (AT) to analyse all available information on specific cases or sites, with exclusive aim of solving more missing persons' cases. The AT includes one nominally appointed member of the Belgrade and Pristina delegations respectively, EULEX and ICRC.
120. Seek technical assistance from international bodies operating on the	See paragraph 73 of the report.	Missing Persons Resource Center This request have been submitted long time ago but	The WGEID reiterates the recommendation made during the

Recommendations (A/HRC/30/38/Add.1)	*Situation during the visit (A/HRC/30/38/Add.1)*	*Observations: measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
ground to conduct institutional reforms aimed at establishing an independent and efficient judicial system.		no information on any news	visit.
121. Conduct effective negotiations and reach an agreement on war crime cases with the Serbian authorities in order to establish an operational protocol on cooperation in the investigation and prosecution of war crimes.	See paragraph 52 of the report.	Missing Persons Resource Center A lot has been said about this but nothing has been done	The WGEID reiterates this recommendation and regrets that cooperation with the Serbian authorities on war crimes cases is currently non-existent.
122. Conclude cooperation agreements with other international mechanisms involved in the investigation and prosecution of war crimes in order to facilitate technical cooperation, such as acquiring evidence, statements and documents related to the war in Kosovo.	See paragraphs 70, 74, 76 and 77 of the report.		The WGEID reiterates the recommendation made during the visit.
123. Hold consultations with associations of families of missing persons, civil society organizations and other relevant stakeholders on the establishment of a central register on missing persons to ensure that the register contains all the information necessary to facilitate the clarification of the fate and whereabouts of missing persons in a transparent, inclusive and consultative manner.	See paragraph 62 of the report.	Other The authorities still need to adopt secondary legislation on the establishment of a central register, and on the closure of cases, to support implementation of the Law on Missing Persons. The new Government has taken a more active role in clarifying the fate and whereabouts of those still missing from the '99 conflict. In an attempt to unlock the issue of Missing Persons (MP), PM Haradinaj has established two informal working/meeting groups: a) technical working group; and b) wider working	The WGEID appreciates the information according to which the authorities have established two informal working groups in an attempt to unlock the issue of missing persons.

Recommendations *(A/HRC/30/38/Add.1)*	*Situation during the visit* *(A/HRC/30/38/Add.1)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		group, which includes the families of the missing, whereas PM will report on the progress achieved.	
124. Engage minority groups and ensure they are adequately represented in the Commission on Missing Persons. The Commission should ensure the implementation in practice of the principle of non-discrimination.	See paragraph 65 of the report.	Missing Persons Resource Center Based on available information until recently the GCMP was consisted only of members of Albanian community. Recently a member of Serbian community has joined the GCMP but no other communities involved. Other A positive development is the appointment of the Deputy Head of the Government Commission on Missing Persons belonging to non-majority community.	The WGEID appreciates the appointment of the Deputy Head of the Government Commission on Missing Persons belonging to non-majority community.
125. Engage associations of families of missing persons and encourage them to nominate members of the Commission on Missing Persons.	See paragraph 62 and 65 of the report.	Missing Persons Resource Center Completed Other The Governmental Commission on Missing Persons (GCMP) has two representatives of the family associations regularly attending the meeting of the GCMP.	The WGEID appreciates that the Governmental Commission on Missing Persons has two representatives of the family associations regularly attending its meetings.
126. Organize joint commemorations for victims of missing persons from all ethnic backgrounds.	See paragraph 67 of the report.	Missing Persons Resource Center Only MPRC has organized such ceremony, on the occasion of 30 August (2017), International day of Missing Persons. Family members of all ethnic background in Kosovo were involved Other At present there are 3 dates/commemorations for	The WGEID notes that a joint commemoration was organized in 2017 on the occasion of the International Day of the Disappeared, though it was a civil society rather than institutional activity.

Recommendations (A/HRC/30/38/Add.1)	Situation during the visit (A/HRC/30/38/Add.1)	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the WGEID)
		victims of missing persons: a) 27 April – the day on Missing commemorated by Kosovo Albanian families of missing persons; b) 22 June – the day of the Missing commemorated by Kosovo Serbian families of missing persons; and c) 30 August - the International Day of the Disappeared	
127. Adopt a law on the use in Kosovo of evidence collected by the International Tribunal for the Former Yugoslavia in order to ensure that evidence gathered by the Tribunal will continue to be admissible after the transfer of the mandate to local courts and prosecutors, protecting confidentiality rules.	See paragraph 76 of the report.	Missing Persons Resource Center Based on available information, such law do not exist	The WGEID reiterates the recommendation made during the visit.
128. Immediately open archives relevant to cases of enforced disappearances that took place during and immediately after the 1998-1999 events in Kosovo, in order to facilitate the localization of undiscovered gravesites and to speed up the search.	See paragraphs 62 and 63 of the report.	Missing Persons Resource Center Not even one has been opened. Other Over the past 2 years the process of exchange of information with a view to clarifying the fate of the remaining missing persons has practically ground to a halt. The reasons are both political and operational and need to be overcome as soon as possible to unlock the process.	See recommendation related to paragraph 96.
129. Provide the families of missing persons with adequate and effective reparation. Consultations with victims from all ethnic groups should be held to hear their views on the specific nature of the reparation that they need. Language support should be provided	See paragraphs 78 and 80 of the report.	Missing Persons Resource Center The law on Missing Persons does not meet the needs of families of missing persons nor recommendations of this report. MPRC is the only organization which gathers families of missing persons of all ethnic background and consults them about their concerns related the law on MP and other issues they face.	The WGEID notes that the authorities established a Task Force to amend the legal framework on missing persons, including to bring about adequate and effective reparation for victims. However, it also notes that non-Albanian

Recommendations (A/HRC/30/38/Add.1)	*Situation during the visit (A/HRC/30/38/Add.1)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
upon request in the whole process.		Language support is always provided during the meetings organized by MPRC. Other The Government has established a Task Force to amend the legal framework on missing persons. Some of the areas pertaining the benefits of the family of missing persons that the task force is looking at amending, include: narrowing the gap between the benefits that the law provides to families of missing of former KLA and families of missing civilians; enabling relatives of missing persons to enjoy pensions of missing persons and pensions guaranteed in the pensions scheme; establishing a public fund to support family associations. However, recurring attempts by some politicians to amend the timeframe covered by the Law on Missing Persons, effectively excluding many non-Albanian victims, needs to be carefully monitored.	victims encounter more difficulties to effectively benefit from redress.
130. Ensure that all victims of enforced disappearance obtain full reparation, including restitution, rehabilitation, satisfaction and guarantees of non-repetition, without discrimination and without having to declare the disappeared person dead.	See paragraphs 78, 79 and 80 of the report.	Missing Persons Resource Center Partially done since there are a lot of shortcomings in the law on Missing Persons even though the families are constantly insisting for the law to be amended. Other Family associations coming from minority communities have complained of administrative challenges when applying for their benefits in various municipalities i.e. language/communication barriers; forms/documents available only in Albanian etc.	See previous observation.
131. Establish and effectively implement a comprehensive witness protection programme, with the support of international organizations.	See paragraph 75 of the report.	Missing Persons Resource Center Our institutions do not have such programme. Other	The WGEID notes that Kosovo authorities with the help of the EU have developed a witness protection programme in line with EU and

Recommendations (A/HRC/30/38/Add.1)	*Situation during the visit (A/HRC/30/38/Add.1)*	*Observations: measures taken/current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		Kosovar authorities with help of EU assistance have developed a witness protection programme in line with EU and international standards (Regional EU IPA Funding WINPRO 1, 2, 3).	international standards. The WGEID would appreciate receiving more information on the program and its implementation.
132. Adopt a gender-sensitive approach when designing and implementing reparation programmes, in order to address gender inequality. Relocation assistance should be provided in cases where the victims live in the same community as the alleged perpetrators in order to facilitate the victims' rehabilitation and prevent them from being re-traumatized.	See paragraphs 75, 79 and 81 of the report.	Missing Persons Resource Center Not even taken into consideration	The WGEID regrets the information that there was no progress in relation to this issue and reiterates the recommendation formulated after the visit
133. Address the possible misidentifications made in the past, provided that the right to privacy of the families of victims of enforced disappearances are fully respected and that the DNA data is protected with the utmost care. A review process should be initiated to remove the obstacles to the ongoing identification work.	See paragraph 64 of the report.	Missing Persons Resource Center MPRC has opened a discussion on this topic and has given its recommendations but no decisions have been taken yet. ICMP The interrelated issue of NN (no name) cases and misidentifications dating from before ICMP's introduction of a DNA-led process in 2001 is a major regional impediment to identifying missing persons. There are more than 3,000 NN cases stored in mortuaries in BIH; around 900 in Croatia, 400 in Kosovo, and approximately 450 NN cases buried in municipal plots in Serbia. ICMP has obtained DNA profiles from the NN cases in BIH and Kosovo; however, these do not match any of the thousands of sets of genetic references collected from families who are still searching for their missing relatives. Croatia reports that it has made efforts to identify its NN	The WGEID notes that the authorities are in the process of compiling the list of cases of those who have been identified with traditional methods, as well as of families who refused to give blood/blood samples necessary for comparison with NN mortal remains. It also notes that this is an issue that needs to be tackled at the regional level.

Recommendations *(A/HRC/30/38/Add.1)*	*Situation during the visit* *(A/HRC/30/38/Add.1)*	*Observations: measures taken current situation*	*Level of implementation and observations (to be completed by the WGEID)*
		cases, but without success. The unresolved status of NN cases contributes to suspicions between states, and this exacerbates tensions in the region and undermines regional cooperation to address the very issue of missing persons from the conflicts in the former Yugoslavia. Where identifications are carried out using traditional methods, misidentifications may take place, despite the authorities' best efforts. It is especially difficult to achieve accurate results by traditional methods when applied to large numbers of mortal remains recovered long after death in complex commingled sites. Misidentifications have a compound effect on efforts to account for all the missing. When a body is misidentified, the family that has incorrectly received the body in many instances will not have provided family DNA reference samples. Therefore, the actual mortal remains of their family member, if located, will remain unidentified. And the family whose missing relative's remains were misidentified and released incorrectly to another family will not resolve their case even if they have provided DNA reference samples since their relative is buried under someone else's name. A higher proportion of misidentifications may contribute to an increased number of unidentified mortal remains in mortuaries. Other The issue of misidentification before DNA testing was introduced as the primary means of human identification, remains a challenge that must be addressed. The collection of additional genetic reference samples from family members who identified their missing through traditional means	

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		without the assistance of DNA, may make it possible to resolve a substantial number of cases of unidentified human remains in Pristina Mortuary. The Government is in the process of compiling the list of cases or families who have been buried with traditional means, as well as refused to give blood/blood samples necessary for comparison with NN mortal remains. The authorities, in close cooperation with relevant international stakeholders should develop a plan must on how to resolve these cases that would necessarily involve addressing the issue of potential misidentifications based on traditional methods.	
134. Ensure media freedom and use the mass media to raise awareness of the issue of missing persons in the region.		Missing Persons Resource Center Media coverage of this topic is not satisfactory even though the families of Missing Persons request more engagement to be done. Other To be considered from the Task force responsible to amend the legislation on Missing Persons.	The WGEID notes that there is no systematic approach to inform the general public about the issue of missing persons and coverage of the topic appears to be unsatisfactory.
135. Develop educational materials that promote pluralism, and teach history objectively in order to combat ethnic polarization and ethnic discrimination.		Missing Persons Resource Center We don't have any information if the Ministry of Education has done anything regarding this issue. MPRC has initiated and is continuously working on strengthening the cooperation between all communities in Kosovo through various activities an environment free of ethnic polarisation and ethnic discrimination. Other To be considered from the Task force responsible to amend the legislation on Missing Persons.	The WGEID reiterates the recommendation formulated after the visit.

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136. Put in place a strong vetting process to ensure that alleged perpetrators are not appointed to positions of authority.	See paragraph 77 of the report.	Missing Persons Resource Center We are not informed about the existence of such verification process.	The WGEID reiterates the recommendation formulated after the visi.t
D. Recommendations to international bodies 137. UNMIK and EULEX should engage with international human rights mechanisms with the aim of addressing issues related to enforced disappearance. International bodies acting as transitional administrators in Kosovo should be held accountable for human rights violations.	See paragraphs 69, 70, 71 and 72 of the report.	UNMIK UNMIK took active steps to engage with the UNWGEID. UNMIK organized a two-day conference on 29 and 30 June 2017 in Geneva on Missing Persons as a result of the events in Kosovo in 1998/1999 on which relevant entities from Serbia and Kosovo involved in the subject matter, including families of Missing Persons from all communities, were provided with the opportunity to gather and discuss the way forward towards the achievement of the common objective to clarify the fate and whereabouts of missing persons, while benefitting from the presence of the UN Working Group on Enforced or Involuntary Disappearances and the UN Committee of Missing Persons from Cyprus. The rationale behind this initiative was to build on the recommendations included in the public report of the UN Working Group on Enforced or Involuntary Disappearances (UNWGEID), which was presented at the Human Rights Council in September 2015, explore how the current mechanism could be strengthened, and create an opportunity for the participants to articulate their priorities and the requirements related to the implementation of their respective mandates. This initiative resulted in concrete engagements among the participants on the next steps and the way	The WGEID appreciates UNMIK engagement through the organization of a two-day conference on 29 and 30 June 2017 in Geneva on Missing Persons as a result of the events in Kosovo in 1998/1999, with the participation of authorities as well as families of missing persons from all communities, among others. The WGEID would appreciate receiving more information on the implementation of the commitments and engagements agreed by all participants during the event.

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		forward, known as Geneva Commitments. EULEX EULEX is committed to solving the plight of missing persons and will continue to engage with all relevant actors in Kosovo and in the region, until the end of its mandate. EULEX is committed to respecting, protecting and fulfilling human rights in the implementation of its mandate, in line with the Council Joint Action 2008/124/CFSP 2008. EULEX has a human rights accountability mechanism called Human Rights Review Panel. The Panel's mandate is to review alleged human rights violations by EULEX Kosovo in the conduct of its executive mandate. Missing Persons Resource Center We agree with this recommendation but human right are still being violated.	
138. All international bodies that hold relevant information regarding cases of enforced disappearances that took place during and immediately after the 1998-1999 events in Kosovo should open their archives and facilitate the search and investigation.	See paragraphs 70, 71, 72 and 76 of the report.	UNMIK This point was extensively discussed at the Geneva Conference organised by UNMIK. ICRC is currently taking steps through diplomatic channels with international organisations on this particular matter. EULEX EULEX is aware of the legal and factual differences between missing persons and enforced disappearances and agrees with the WGED (Working Group on Enforced Disappearances) that the two issues are interlinked in the Kosovo context. In 2008 EULEX received from UNMIK 1,187 'war crimes' case-files as well as around 5,000 files classified by UNMIK as 'missing person cases'. At	The WGEID welcomes efforts to address the issue but notes the lack of results thus far. The work on implementation of this recommendation should be intensified.

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		the moment of the hand-over, out of these 5,000 cases, around 2,000 had been marked by UNMIK as 'active' while 3,000 had been marked as 'closed', because the remains of the disappeared had in the meantime been found and identified. A number of these cases may present the features of enforced disappearances. Following changes to the EULEX mandate and as reflected also in Kosovo legislation, in 2014 the Mission started handing over criminal cases, including cases connected to the conflict, to Kosovo institutions. In accordance with Kosovo laws, EULEX will transfer all criminal cases and files to local institutions by the end of the current mandate. EULEX is committed to ensuring an orderly transfer of the case files and over the past year, staff in the War Crimes Investigation Unit has been working extensively on the preparation of paper and electronic files (including databases) for the hand-over (see also below under point 143). It will be up to Kosovo institutions to ensure that information and evidence from the case files is used effectively to continue the search of the missing and the investigation of war crimes and other crimes related to the conflict. In view of the transfer of cases, EULEX is currently supporting Kosovo institutions in drafting a National War Crimes Strategy. Missing Persons Resource Center This is necessary to be done but we do not have information on the archives even though the authorities say that they hand over archives to each other, after the end of mandate.	
139. ICRC should continue chairing the Working Group on Missing Persons	See paragraphs 20, 24 and 17 of the	ICRC	The WGEID welcomes the fact that the ICRC will continue chairing the

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and facilitate communication and cooperation in the region. ICRC should further strengthen and expand its initiatives.	report.	The ICRC will continue chairing the Working Group on missing persons. Furthermore, this year, the ICRC launched a 5 years Road Map aiming at boosting its efforts for contributing to solve the fate of the Missing Persons in Kosovo and other countries of the West Balkans. More human resources and funding will be dedicated to the research on the archives of International Institutions such as the MICT with the main objective to find more information on the fate and whereabouts of missing persons. Missing Persons Resource Center ICRC is chairing the Working Group on Missing Persons and facilitate communication and cooperation in the region. The initiatives are in the same level as before. Other The ICRC continued to chair the Working Group on Missing Persons (WG), and it's Sub-Working Group on Forensic Issues (SWG). In addition, in the frame of its five years strategy launched in 2018, the ICRC is renewing its efforts to access the archives of national and international organizations / institutions, who may hold valuable information on the cases of missing persons. In this 5 years framework plan, the ICRC will increase its resources in particular related to researching archives.	Working Group on Missing Persons and that it recently launched a 5 years Road Map with the aim to, *inter alia*, increase human and financial resources for the research on the archives of international institutions such as the Mechanism for International Criminal Tribunals (MICT) with the main objective to find more information on the fate and whereabouts of missing persons.
140. The Working Group on Missing Persons should meet more frequently. In the meantime, the Working Group encourages UNMIK, as an observer of the body, to continue playing an active	See paragraph 20 of the report.	UNMIK UNMIK is not an observer of the Working Group, but a full member of Pristina Delegation. In this capacity and in order to develop a victim centred approach on missing persons, UNMIK supported the	The WGEID welcomes UNMIK's support to the establishment in March 2017 of a Multi Ethnic Missing Persons Resource Centre (MPRC) in Pristina, bringing

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role.		establishment in March 2017 of a Multi Ethnic Missing Persons Resource Center (MPRC) in Pristina for the families of victims. The MPRC is a unique initiative that brings together families of missing persons from all communities. The center encourages cooperation among the families of victims and aims at fostering strong joint advocacies towards Belgrade and Pristina in the area of solving the fate of missing persons in Kosovo. In this regards, the MPRC serves two purposes: promoting reconciliation between communities and amplifying the voice of victims whose relatives remain missing 18 years after the events in Kosovo. Additionally, the activities of the centers include regular coordination meetings with the families of missing persons and Governmental bodies from Serbia and Kosovo; the establishment of an information platform, including publications on missing persons, translated documents and legislation Moreover UNMIK has taken steps to bring a Ground Penetrating Radar at the disposal of the Working Group, which should help to advance the search of body remains. Missing Persons Resource Center Working Groups should meet more frequently. They are obligated to meet every three months but they meet once or twice a year Families of Missing Persons request to be present in these meetings. Other During past three years, seven sessions were organized. Holding of sessions primarily depends on the availability of both Delegations, and/or on other external factors (other commitments, exhumations, etc). according to ICRC both delegations, were continuously reminded that the work done in-	families of all communities together. The WGEID reiterates its recommendation that the Working Group on Missing Persons should meet more frequently and that more work should be done in-between the Working Group's meetings.

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		between the WG sessions, in addressing the commitments taken, has actually direct impact on solving more cases of missing persons.	
141. UNMIK should seek suitable means to grant compensation to victims of human rights abuses as identified by its Human Rights Advisory Panel, especially in relation to the alleged ineffective investigations into cases of missing persons.	See paragraph 69 of the report.	UNMIK UNMIK has not been in a position to comply with recommendations to pay financial compensation to complainants. As advised by the Office of Legal Affairs, 'the acts in question relate to activities carried out by the institutions established under the interim administration of Kosovo over which UNMIK no longer has control'. This position, together with expressions of regret, was consistently repeated in SRSG's decisions to complainants. With regards to the specific case of Roma, Ashkali, Egyptian IDPs in lead contaminated camps in North Mitrovica, in view of the unique circumstances in Kosovo, the Secretary-General has decided, as an exceptional measure, to establish a Trust Fund. The Trust Fund will implement community-based assistance projects, primarily in North Mitrovica, South Mitrovica and Leposavić, which will benefit more broadly the Roma, Ashkali and Egyptian communities. The assistance projects will focus on the most pressing needs of those most vulnerable communities, including with respect to health services, economic development and infrastructure. Missing Persons Resource Center UNMIK should hand over satellite footages and contribute more to this process	The WGEID welcomes the initiative to establish a Trust Fund for the implementation of assistance projects, primarily in North Mitrovica, South Mitrovica and Leposavic, which will benefit the Roma, Ashkali and Egyptian communities, but reiterates the need for a general scheme to provide compensation for the victims of human rights abuses as identified by the Human Rights Advisory Panel.
142. UNMIK should make additional efforts to encourage the effective continuation of investigations that were initiated prior to the transfer of power	See paragraphs 69 and 70 of the report.	UNMIK In 2008, EULEX assumed responsibilities in Rule of Law in Kosovo. UNMIK has subsequently no responsibility in this area. It can only be limited to	The WGEID reiterates the recommendation formulated after the visit.

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from UNMIK to EULEX		encourage EULEX to continue effective continuation of investigations that were initiated prior to the transfer of power from UNMIK to EULEX. UNMIK has engaged EULEX to do so.	
143. Acknowledging the challenging nature of the work of war crimes investigation and prosecution and the efforts made, EULEX must investigate all outstanding cases of enforced disappearances and bring the perpetrators to justice.	See paragraphs 70, 71, 72, 73 and 74 of the report.	EULEX EULEX was established in 2008 to assist the Kosovo institutions, judicial authorities and law enforcement agencies in their progress towards sustainability and accountability and in further developing and strengthening and independent multi-ethnic justice system and multi-ethnic police and customs service (Council Joint Action 2008/124/CFSP 2008). Its current mandate expires on 15 June 2018. Following changes to the Mission's mandate which were also reflected in Kosovo legislation, starting from April 2014 EULEX prosecutors and judges retained competence only in relation to 'ongoing cases', except in 'extraordinary circumstances'.[12] Considering its limited operational time-frame, the resources available and the fact that the investigation, prosecution and adjudication of war crimes was only one of its priorities, over the past 10 years the Mission did its best to investigate crimes related to the conflict and bring perpetrators to justice. EULEX has been actively engaged in addressing the issue of missing persons through several units: the EULEX War Crimes Investigation Unit (WCIU), the EULEX Special Prosecution Office (EULEX SPRK), the EULEX personnel supporting the Institute of Forensic Medicine (IFM), and, between 2011 and	The WGEID notes the efforts displayed by EULEX over the past 10 years to investigate and prosecute several war crimes cases. However, given the reported lack of political will for cooperation from both Serbia and Kosovo on requests for mutual legal assistance, the WGEID is concerned at the fact that, following changes to the EULEX mandate and as reflected also in Kosovo legislation, in 2014 the Mission started handing over criminal cases, including cases connected to the conflict, to Kosovo institutions.

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[12] Article 1.A and 7A of Law No. 03/L-53 on Jurisdiction and Competencies of EULEX Judges and Prosecutors in Kosovo, from 23 April 2014. Both Articles were rewarded by Law No. 05/L-103 on Amending and Supplementing the Laws Related to the Mandate of the European Union Rule of Law Mission in the republic of Kosovo from 17 June 2016.

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		2016, the SITF (Special Investigative Task Force), which is now part of the Kosovo Specialist Prosecutor's Office based in the Hague. Over the past 10 years, EULEX investigated, filed indictments and adjudicated several war crimes cases. Priority cases for investigation were selected based on the gravity of the crime, the availability of witness testimonies and other evidence, as well as the resources available. In many cases, investigations could not move forward due to the fact that the suspects are not in Kosovo and cannot be tried *in absentia.* The lack of political will for cooperation from both Serbian and Kosovo on requests for mutual legal assistance also continued to affect negatively the ongoing investigations. Over the past year, the WCIU has intensified its efforts to re-assess and systematise the 'missing person' case-files in preparation for the hand-over to Kosovo institutions. The ongoing analysis of these cases by EULEX has revealed that many among the 5,000 cases received from UNMIK, should have been reported to the prosecutors at least at the moment when remains were found and the cause of death established. Also, many of these cases were registered by UNMIK as 'missing persons' despite the fact that the relevant files included information on the identity of suspects. Efforts to rectify this problem were already initiated during the early years of EULEX operations, but later they had to be put on hold when the research and analysis team of the WCIU, was cut as part of the 2013-2014 Mission's reconfiguration. Data from the IFM files is currently being integrated in the EULEX database, so that all the information available on missing persons will be easily accessible	

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		and searchable by relevant Kosovo institutions after the transfer of the cases by EULEX. Over the past year, the WCIU together with EULEX SPRK has also been actively engaged in identifying injured parties in cases of missing persons with a view to notifying rulings on dismissal of the criminal reports, in line with the provisions of the Kosovo criminal procedure code. Prosecutors in the EULEX SPRK continued to cooperate with Serbian prosecutors over war crimes. Regrettably, since the issuance of the 2015 WGEID report, the work of EULEX prosecutors continued to be hampered, as witnesses are often reluctant to stand by their own statements given in the investigative stage. Since 2015, legislation to establish the Institute of Forensic Medicine as an independent agency was adopted by the Kosovo Government; however the adoption of relevant by-laws is still pending. A joint effort with local counterparts was made by EULEX to reduce the autopsy backlog through a clear identification and prioritisation of cases. However, problems persist due to the lack of a functional case management system, which translates in no effective control of cases and lack of reliable statistics. Nonetheless, thanks to the work of the EULEX personnel supporting the IFM, the backlog of clinical examinations reports and unfinished autopsies was significantly reduced, with a significant impact on the progress of investigations in missing person cases. In recent years, EULEX staff continued to carry our site assessments, exhumations, re-associations of remains and identifications. In September 2016, a working group led by Kosovo	

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		institutions for drafting a 5 year strategy in the field of forensic medicine was established; EULEX has been advising the working group on relevant European best practices. In this context EULEX has also strongly advocated for the drafting of a strategy on the issue of missing persons, but so far without success. Given the difficult relations between the Kosovo Government Commission on Missing Persons and the Serbian counterpart, EULEX continued to act as intermediary. Indeed, in light of the fact that Serbia does not recognize Kosovo Institutions, Serbian authorities have been handing over remains of conflict victims only to EULEX and not to their local counterparts, namely the Governmental Commission on Missing Persons in Kosovo. Missing Persons Resource Center Not completed. Very little has been done	
144. In order to encourage testimonies, EULEX, in cooperation with the authorities in Kosovo, should establish an effective and comprehensive witness protection programme, including relocation assistance.	See paragraph 75 of the report.	EULEX Since 2015, the EULEX Witness Security Department continued to support temporary and permanent relocation of protected persons according to the requests of EULEX prosecutors, and to secure environments in order for interviews with witnesses to be carried out. The EULEX department continues to liaise with the KP witness protection directorate who declared themselves operationally capable to support the Kosovo criminal justice system which constitutes a positive step toward future local empowerment. The EULEX department will provide both support and guidance if requested.	The WGEID is concerned that the work of EULEX prosecutors continued to be hampered by the fact that witnesses are often reluctant to stand by their own statements given in the investigative stage, which emphasizes again the need for an effective and properly functioning witness protection program.

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		Missing Persons Resource Center It is necessary but has not been completed	
145. Establish close cooperation with and invest more resources in capacity-building for local police officers, prosecutors, judges and forensic experts, including forensic archaeologists and forensic anthropologists. Ensure that ethnic Serbs are present at all training courses.	See paragraphs 66, 73 and 74 of the report.	EULEX The EULEX staff at the IFM continued to provide on a regular basis 'on the job training' to Kosovo staff regarding all aspects of work related to missing persons (forensic archaeology, forensic anthropology, investigation and crime scene management, and data management). They also facilitated the delivery of training by other actors. One local staff attended a 2 week training in forensic anthropology at the ICMP (International Commission for Missing Persons) in Bosnia and Herzegovina and the Mission also facilitated, with the support of the British Embassy in Pristina, an online theoretical course in forensic anthropology for two local doctors. Two local working groups on institutional and professional capacity building and accreditation of laboratories were convened last year with the Mission support. In 2015 and 2016 the WCIU delivered a week-long training for local investigators and prosecutors on war crimes, including a comprehensive part on issues related to missing persons. Other training sessions were held with regard to issues of rape and sexual violence as war crimes, and witness protection. Since the establishment of a dedicated war crimes department within the Kosovo SPRK in August 2015, EULEX SPRK has continued to provide training to build the capacity of local counterparts including on war crimes and international criminal law. Further trainings are planned for the coming period. Missing Persons Resource Center Kosovo does not yet have an anthropologist and very	The WGEID appreciates that since the establishment of a dedicated war crimes department within the Kosovo Special Prosecution Office (SPRK) in August 2015, EULEX has continued to provide training to build the capacity of local counterparts including on war crimes and international criminal law.

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		little has been done regarding this issue. Other EU Projects: IPA 2012 - Strengthening and modernizing the forensic services in Kosovo - The purpose is to strengthen and modernize the forensic services at the Institute of Forensic Medicine (IFM) including the Missing Persons Operation by enhancing its technical and administrative capacity. Project Value: € 899,970.00; Duration: 36 months (10 February 2014 – 09 February 2017). Status: Project Completed ICMP Assistance to Address the Issue of Missing Persons Related to the Kosovo Conflict - The purpose of the project is, first, to enable the Kosovo and Serbian authorities to resolve missing persons cases through the provision of DNA testing and matching; second, to empower families of the missing to claim their rights; third, to analyse the process of search, recovery and identification of missing persons related to the Kosovo conflict, draw conclusions and propose recommendations to carry the process forward; and fourth to strengthen the capacity of the Kosovo Forensic Agency. Project Value: 401,696.00 euro; Duration: Eighteen (18) months (01 August 2015 – 31 March 2017). Status: Project Completed IPA II/2015 - Further Strengthening and Modernizing the Forensic Services including the Missing Persons Operation in Kosovo: The purpose of this service contract is to further strengthen and modernize the forensic services at the institute including the Missing Persons Operation by enhancing its technical and	

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		administrative capacity. Project value: EUR 2.000.000, 3 years; start date: February 2018.	